

***United States Court of Appeals
for the Second Circuit***



APPENDIX

13
P/L

No. 74-1035

United States Court of Appeals

FOR THE SECOND CIRCUIT

No. 74-1035

LODGES 700, 743, and 1746, INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS, AFL-CIO, *Petitioners*,

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent*,

and

UNITED AIRCRAFT CORPORATION, *Intervenor*.

On Petition for Review of an Order of the National Labor Relations Board

JOINT APPENDIX

Volume I

PLATO E. PAPPS
Machinists Building
Washington, D. C. 20036

MOZART G. RATNER
Ratner and Driesen, P.C.
818 - 18th Street, N. W.
Washington, D. C. 20006

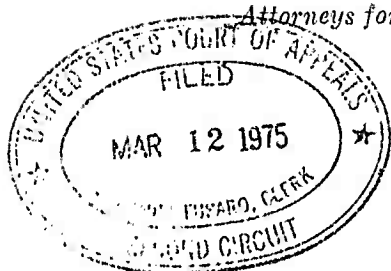
Attorneys for Petitioners

ELLIOTT MOORE
Associate General Counsel
National Labor Relations Board
Washington, D. C. 20570

JOSEPH C. WELLS
1225 Connecticut Avenue, N. W.
Washington, D. C. 20036

GUY FARMER
JOHN A. MCGUINN
Patterson, Belknap, Farmer
& Shibley
1120 Connecticut Avenue, N. W.
Washington, D. C. 20036

*Attorneys for United Aircraft
Corporation*



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TABLE OF CONTENTS

VOLUME I

	Page
Relevant Docket Entries	2
Excerpts from Transcript of Proceedings	6
Witnesses:	
Fred C. Avery	212
Anthony Bankowski	389
Wilson B. Bly	334
John J. Burek	427
William C. Gaskin	165
Wilfred E. Hall	431
Dennis J. Havener	139
Herbert E. Heim, Jr.	252
Dainey Merrill Johnson	314
James Michael Kane	233
Louis Kasden	242
Gordon Keeney	396
Robert Carl Krieger	290
Lionel Labbe	206
Russell Allen Lee	53
Warren A. Lee, Jr.	96
Howard J. Lyman	403
Carl D. Martin	95
Nathaniel B. Morse	34, 218, 336
Gerald P. Nellis	127
John H. Phelps	428
Thaddeus Piorek, Jr.	157
Francis Edward Porter	324
Gary Raymond	187
Lucius W. Robinson	415
Perley Robinson	248
Francis E. Rogers	181
Charles Savarese, Jr.	385
Gordon Sawyer	359, 400
Robert F. Sullivan	65
Theodore B. Tobin	121
Conrad J. Tyaae	6
Michele Linda Ziamba	210
Robert Zielinski	367

VOLUME II

	Page
G. C. Exh. 1(a)	Original Charge dated August 10, 1970 442
G. C. Exh. 1(c)	Amended Charge dated December 23, 1970 444
G. C. Exh. 1(e)	Complaint and Notice of Hearing dated February 4, 1971 446
G. C. Exh. 1(g)	Answer to Complaint, February 9, 1971 459
G. C. Exh. 1(h)	Third Amended Charge dated February 22, 1971 461
G. C. Exh. 1(l)	General Counsel's Reply and Opposition to Respondent's Motion for a More Specific Statement of Complaint dated April 15, 1971 463
G. C. Exh. 1(n)	Amendment to Complaint and Notice of Hearing dated April 15, 1971 479
G. C. Exh. 1(t)	General Counsel's Further Reply and Opposition to Respondent's Amendment To Its Motion For a More Specific Statement of Complaint dated April 27, 1971 484
G. C. Exh. 1(v)	Further Amendment to Complaint and Notice of Hearing dated April 28, 1971 489
G. C. Exh. 1(y)	Amendment to Answer to Complaint, April 27, 1971 490
G. C. Exh. 1(z)	Third Amendment to Complaint and Notice of Hearing dated May 3, 1971 493
G. C. Exh. 1(bb)	General Counsel's Additional Specifications dated May 4, 1971 ... 494
G. C. Exh. 1(gg)	Further Amendment to Answer to Complaint, May 10, 1971 495
G. C. Exh. 1(jj)	Original Charge dated December 22, 1969 (Case No. 1-CA-6952) .. 498
G. C. Exh. 1(ll)	Original Charge dated February 22, 1971 (Case No. 1-CA-7518) 499

	Page
G. C. Exh. 1(nn)	Order Consolidating Cases, Fourth Amendment to Complaint and Notice of Hearing dated May 13, 1971 500
G. C. Exh. 1(pp)	Order on Respondent's Motion to Strike, May 20, 1971 505
G. C. Exh. 1(qq)	Third Amendment to Answer to Complaint, May 26, 1971 506
G. C. Exh. 6	Collective Bargaining Agreement between Lodge 700, IAMAW and Pratt & Whitney, effective December 1, 1968 509
G. C. Exh. 7(a)	Urbanowicz Arbitration Award .. 533
G. C. Exh. 7(b)	Transcript of Hearing in Urbanowicz Arbitration 534
G. C. Exh. 22(a)	Tyaack Employee Performance Rating 535
G. C. Exh. 22(c)	Zura Employee Performance Rating 536
G. C. Exh. 32	Supervisor's Employee Relations Manual 537
G. C. Exh. 34	Employee Performance Rating (4/21/65) 542
G. C. Exh. 34(a)	Definitions of Performance Rating Factors For Hourly Employees (4/21/65) 545
G. C. Exh. 39(a)	Foreman's Instructional Material — Employee Performance Rating 550
G. C. Exh. 39(d)	Foreman's Instructional Material—Foremen/Employees Policies and Procedures Relationships 554
G. C. Exh. 40(a)	Second Step Minutes— July 10, 1970 556
G. C. Exh. 40(b)	Second Step Minutes— June 19, 1970 561
G. C. Exh. 40(e)	Second Step Minutes— January 8, 1971 565
G. C. Exh. 40(f)	Second Step Minutes— June 19, 1970 567
G. C. Exh. 40(g)	Second Step Minutes— October 23, 1970 572

Table of Contents Continued

iv

	Page
G. C. Exh. 41	Second Step Minutes—
	May 8, 1970 579
G. C. Exh. 46	Contract Between Lodge 1746 and Pratt & Whitney 583
G. C. Exh. 47	Contract Between Lodge 743 and Hamilton Standard 607
G. C. Exh. 48	Employee Report—Rogers 629
G. C. Exh. 55	Employee Report—Raymond 631
G. C. Exh. 57(a)	Internal Security Investigation Di- vision File No. 70 03916 re Gary Raymond (Pratt & Whitney) .. 632
G. C. Exh. 59	Second Step Minutes—Perry 660
G. C. Exh. 60	Minutes of Meeting between Man- agement Committee and Shop Committee, October 1, 1970 664
G. C. Exh. 61(a)	Inter-Departmental Pass 668
G. C. Exh. 61(e)	Heim's Notes, dated 10/6/70 669
G. C. Exh. 64(a)	Synopsis in ISID File No. 15786 .. 672
G. C. Exh. 64(c-1)	ISID, Typed Statement of Fio- chetta dated 7/2/70 675
G. C. Exh. 64(d)	ISID, Handwritten Statement of Sullivan dated 7/2/70 678
G. C. Exh. 64(d-1)	ISID, Typed Statement of Sullivan dated 7/2/70 680
G. C. Exh. 70(a)	Transcript of Lazaroff Testimony From Arbitration 682
G. C. Exh. 73	DeRaffael Grievance Submitted by Tobin dated 6/5/70 694
G. C. Exh. 74	Tyaack Grievance Submitted by Havener dated 6/17/70 695
G. C. Exh. 75	Gaskins Grievance Submitted by Piorek dated 4/24/70 696
G. C. Exh. 79	Rogers Grievance dated 2/10/71 .. 697
G. C. Exh. 87	You and Your Company (Pratt & Whitney Handbook) 698
G. C. Exh. 88	Employee Personal Handbook (Hamilton Standard Handbook) 707
R. Exh. 1	Tyacek Merit Rating dated No- vember 16, 1970 710
R. Exh. 14	Summary of Major Facilities of Pratt & Whitney 711

Table of Contents Continued

v

	Page
R. Exh. 45	Contract Between Lodge 1746 and Pratt & Whitney dated December 4, 1950 712
R. Exh. 46	Document Transmitted to Union Pursuant to Section 14 (p. 10) of R. 45, dated December 8, 1950 .. 713
R. Exh. 58	Statistical Study of Grievance Calls and Responses During 1969, 1970, and 1971 (Pratt & Whitney) ... 717
R. Exh. 59	Statistical Study of Grievance Calls and Responses During 1969, 1970, and 1971 (Hamilton Standard) 718
R. Exh. 63	Supervisor's Employee Relations Manual, Section 604, re Passes (Current) 719
R. Exh. 65(a)	Written Instructions Relative to Merit Rating Grievances 721
R. Exh. 65(c)	Merit Rating Grievance Request Form 722
R. Exh. 67	Definitions of Performance Rating Factors for Hourly Rated Employees 723
R. Exh. 71	Gougemont Grievance dated December 7, 1970 728
R. Exh. 73	Eslinger Grievance dated December 7, 1970 729
R. Exh. 74	Olivevia Grievance dated December 7, 1970 730
R. Exh. 79	Excerpts from Notebook of Michael Dorsey entitled "Employee Performance Rating (Merit Rating) Reference Paper" 731
R. Exh. 80	Guard Passes to W. C. Gaskins by Foreman Lyman re: 5-7-70 to 1-28-71 735
R. Exh. 89(a)	Raymond Grievance filed re Disciplinary Suspension 736
R. Exh. 89(b)	Second Step Minutes on Raymond 737
R. Exh. 89(c)	Letter from Company to Union re Raymond Grievance Requesting Third Step 741
R. Exh. 89(d)	Company Minutes of Third Step Grievance re Raymond 743

	Page
R. Exh. 89(e) Letter From Company to Union Re- requesting Fourth Step Agenda Placement	747
R. Exh. 89(f) Fourth Step Minutes	748
R. Exh. 89(g) Letter from Company Requesting Arbitrator, May 11, 1971	751
R. Exh. 89(h) Letter from Company to Arbitra- tor re Submission of Raymond Grievance to Arbitration	752
R. Exh. 89(i) Letter, Ratner to Arbitrator dated May 19, 1971	753
R. Exh. 89(j) Letter from Arbitrator to Wells ..	755
R. Exh. 89(k) Letter from Company to Arbitra- tor	756
R. Exh. 91(a) Arbitration Decision re Sullivan dated September 17, 1971	757
R. Exh. 91(b) Check Issued to Robert Sullivan ..	773
Charging Party's Exhibit 4	775
Motion to Reopen Record and Receive Additional Evidence	776
Respondent's Response to Charging Party's Motion To Reopen Record and Receive Additional Evi- dence	780
Order re Charging Party's Exhibit 4	784
Motion To Reopen Record and Receive Additional Evidence	785
General Counsel's Response and Cross Motion To Re- open Record and Receive Additional Evidence ..	789
Ruling on Motions	793
Trial Examiner's Decision	794
Counsel for the General Counsel's Statement of Ex- ceptions	826
Charging Parties' Exceptions	832
Decision and Order	841
Order of October 17, 1973 Denying Motion	857

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JOINT APPENDIX

Volume I

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: Lodges 700, 743, & 1746, Int'l Assoc. of
Machinists & Aerospace Wkrs., AFL-CIO

Case Nos.: 1-CA-7234, 1-CA-6952 and 1-CA-7518

12.22.69 Charge filed in Case No. 1-CA-6952

8.10.70 Charge filed in Case No. 1-CA-7234

12.23.70 Amended Charge filed in Case No. 1-CA-7234

2. 4.71 Complaint and Notice of Hearing in Case No. 1-CA-7234,
dated

2. 9.71 Employer's Answer to Complaint, received

2.22.71 Third Amended Charge filed in Case No. 1-CA-7234

2.22.71 Charge filed in Case No. 1-CA-7518

4. 6.71 Employer's Motion for a More Specific Statement of
Complaint, dated

4.14.71 Administrative Law Judge's teletype directing General
Counsel to file his answer on or before April 20, 1971,
to the Employer's Motion for a More Specific Statement
of Complaint, dated

4.15.71 General Counsel's Reply and Opposition to Employer's
Motion for a More Specific Statement of Complaint,
dated

4.15.71 Amendment to Complaint and Notice of Hearing in Case
No. 1-CA-7234, dated

4.20.71 Administrative Law Judge's Order on Employer's
Motion for a More Specific Statement of Complaint,
dated

4.21.71 Employer's Amendment to Employer's Motion for a
More Specific Statement of Complaint, dated

4.26.71 General Counsel's teletype of additional specifications
of Order of Administrative Law Judge, dated

4.27.71 Regional Director's teletype rescheduling hearing,

dated

- 4.27.71 General Counsel's Further Reply and Opposition to Employer's Amendment to its Motion for a More Specific Statement of Complaint, dated
- 4.27.71 Employer's Amendment to Answer to Complaint, received
- 4.28.71 Further Amendment to Complaint and Notice of Hearing, dated
- 4.29.71 Employer's Motion to Strike Portions of General Counsel's Complaint and Amendment to Complaint, received
- 5. 3.71 Third Amendment to Complaint and Notice of Hearing, dated
- 5. 4.71 General Counsel's Additional Specification, dated
- 5. 4.71 Administrative Law Judge's Order on Amendment of Employer's Motion for a More Specific Statement of Complaint, received
- 5. 6.71 General Counsel's Opposition to Employer's Motion to Strike Portions of General Counsel's Complaint and Amendment to Complaint, dated
- 5. 7.71 Further Amendment to Answer to Complaint, dated
- 5.13.71 Order Rescheduling Hearing, dated
- 5.13.71 Order Consolidating Cases, Fourth Amendment to Complaint and Notice of Hearing in Case Nos. 1-CA-7234, 1-CA-6952 and 1-CA-7518, dated
- 5.18.71 Administrative Law Judge's Order on Employer's Motion to Strike, dated
- 5.24.71 Employer's Third Amendment to Answer to Complaint, dated
- 6. 1.71 Hearing opened
- 7.19.71 Employer's Motion to Amend Answer to Complaint, dated
- 7.28.71 Hearing closed

- 8. 4. 71 General Counsel's Motion and Request to the Administrative Law Judge to Take Official Notice of Testimony and Exhibits in Prior Board Cases Involving Employer and Charging Parties, dated
- 8. 25. 71 Charging Parties' Motion to Reopen Record and Receive Additional Evidence, dated
- 9. 2. 71 Employer's Opposition and Response to General Counsel's Motion to the Administrative Law Judge to Take Official Notice of Testimony and Exhibits in Prior Cases, dated
- 9. 2. 71 Employer's Response to Charging Parties' Motion to Reopen Record and Receive Additional Evidence, dated
- 9. 2. 71 Administrative Law Judge's Order, receiving Charging Party's Exhibit No. 4 into evidence, dated
- 9. 17. 71 Administrative Law Judge's Notice to the Parties, dated
- 10. 27. 71 Employer's Motion to Reopen Record and Receive Additional Evidence, dated
- 11. 3. 71 General Counsel's cross-motion to reopen record and receive additional evidence, dated
- 11. 8. 71 Employer's Response to General Counsel's Cross Motion to Reopen Record and Receive Additional Evidence, dated
- 11. 17. 71 Administrative Law Judge's Ruling on Motions, dated
- 2. 8. 72 General Counsel's request to Administrative Law Judge for Official Notice, dated
- 2. 17. 72 Employer's Response to Counsel for General Counsel's Request to Administrative Law Judge for Official Notice, dated
- 3. 6. 72 Charging Parties' Response to General Counsel's Request to Administrative Law Judge for Official Notice in Case No. 1-CA-7234, dated
- 4. 17. 72 Administrative Law Judge's Decision issued
- 5. 23. 72 Charging Parties' Motion for Extension of Time to File Exceptions and Brief, dated

5

- 5.24.72 Employer's letter opposing Charging Parties' motion for extension of time, dated
- 5.25.72 Board's telegram extending time to file exceptions and briefs, dated
- 5.25.72 Employer's letter objecting to extension of time, dated
- 5.30.72 General Counsel's Statement of Exceptions, received
- 6.12.72 Employer's Exceptions to Administrative Law Judge's Decision, received
- 6.12.72 Charging Parties' Exceptions, received
- 7.10.73 Decision and Order issued by the National Labor Relations Board
- 9.14.73 Charging Parties' Motion for Reconsideration, dated
- 10.17.73 Board's Order Denying Motion, dated

EXCERPTS FROM TRANSCRIPT OF PROCEEDINGS

* * * * *

[4] TRIAL EXAMINER: Mr. Harvey, would you introduce the formal papers, please.

MR. HARVEY: I will, sir.

[5] Mr. Examiner, at this time I would like to move the introduction of General Counsel's Exhibit 1, which is comprised of 1 (a), which is the original charge on Case No. 1-CA-7234, dated August 10, 1970, and 1(rr), the index-to the exhibit. I put a duplicate copy of the exhibit on my brother's table. I don't know if he has had an opportunity to peruse it yet.

MR. WELLS: I haven't, but I just assume that they are the formal papers.

MR. HARVEY: That is all they are.

TRIAL EXAMINER: General Counsel's Exhibit No. 1 is received.

[The documents above referred to, heretofore marked General Counsel's Exhibit No. 1 for identification, was received in evidence.]

* * * * *

[46] CONRAD J. TYAAC

was called as a witness by and on behalf of the General Counsel

[47] and, having been first duly sworn, was examined and testified as follows:

TRIAL EXAMINER: Would you state your name for the

record.

THE WITNESS: Conrad J. Tyaac.

TRIAL EXAMINER: What is your address?

THE WITNESS: 14 Annette Place, Middletown, Connecticut.

DIRECT EXAMINATION

Q. (By Mr. Harvey) You are employed by United Aircraft Corporation? A. Right.

Q. In Middletown? A. Yes

TRIAL EXAMINER: Mr. Harvey, so that I can keep myself oriented, what allegation in the complaint is this witness being called on?

MR. HARVEY: Fourth amended complaint, page three, paragraph 4 (h) -- 12 (a) of the total complaint. It is on page three of the fourth amended complaint.

TRIAL EXAMINER: You may continue, Mr. Harvey.

MR. HARVEY: There is another point, too, sir. Paragraph 12 (a) of the original complaint.

TRIAL EXAMINER: Thank you.

Q. (By Mr. Harvey) You are employed at the Middletown plant?

A. Yes

Q. How long have you been employed there? A. A little over four years.

* * * * *

[48] Q. Do you hold any position with Lodge 700? A. I am the

shop committee chairman at the present.

Q. How long have you been that? A. I was installed January 18th of this year.

* * * *

Q. (By Mr. Harvey) Directing your attention to June, 1970, what department did you work in at that time? A. Department 4034.

Q. And what type of work were you doing? A. A toolmaker, class "B".

Q. What the name of your foreman, sir? A. Anthony Bankowski.

* * * *

Q. On or about June 16, 1970, did you receive your merit rating in the company? A. Yes, it was brought to my attention at the Union hall -- at the office.

Q. And directing your attention to June 17th, 1970, did you have a discussion with your foreman relative to it? A. I asked him whether it was correct.

Q. Where did you have this discussion? A. It was in the aisle-way in the department right by the [49] foreman's desk.

Q. Was anyone else present? A. No.

Q. Would you describe the conversation -- what you said and what he said -- please. A. I told him that I had received my merit rating at the Union office the previous night and I was told it was an "R" rate and I asked if that was correct and he said it was. I then

said, "This will mean that I won't be getting any raises for the next six months. Is that correct?" And he said that that was correct. I then asked for a shop steward and that I had a complaint.

Q. Did you discuss your performance with him? A. No.

* * * *

[52] Q. In connection with your merit rating received on June 16th, 1970, you did not discuss this merit rating with your foreman at all?

A. No.

Q. And what steward was called? A. Dennis Havener.

Q. And did he handle your merit rating in June, 1970? A. Yes -- or started to.

Q. Did he have some discussions with your foreman?

* * * *

[53] Q. (By Mr. Harvey) Did Mr. Havener come at your request?

A. Yes.

Q. Would you describe what you did when Mr. Havener came.

A. I told Mr. Havener what I had said to my foreman and I told him that I would like him to discuss the grievance with the foreman. I felt that the last time we didn't get anywhere when I had discussed it and I wanted him to give me an honest opinion, whether it was a personality conflict, whether I was being hard-headed, I wanted to honestly know what he thought, whether I had a valid grievance.

Q. And at that time did you observe Mr. Havener go and have a discussion with your foreman? A. I walked away. I didn't observe it.

Q. Did Mr. Havener file a grievance concerning that merit rating? A. No, I was called back.

Q. You were called back? A. Yes.

Q. To whom? A. To Dennis Havener. The foreman came for me and said to come back.

Q. And you had another discussion with Mr. Havener?

[54] A. Yes

Q. And would you describe that discussion, please. A. Well Mr. Havener told me that the foreman refused to discuss my merit rating with him.

* * * * *

THE WITNESS: He told me that the foreman believed he wasn't qualified to discuss the issues in the toolroom.

* * * * *

[56] Q. Directing your attention to January 26, 1971, did you receive any notice from any stewards in the plant? A. I had a phone call at home. It was about 4:30 in the morning.

Q. Who was it from? A. It was from the senior steward, Ted Pieoric.

Q. And what did he tell you on the telephone?

[57] A. He told me that the employees had been notified that they had been laid off and wanted to know if I had heard about it.

Q. What did you say? A. I said, no, I had no information.

Q. Was there any further conversation? A. Not that I recall.

Q. Did you give him any instructions? A. No.

Q. All right. On January 26, 1971, did you receive any notice of layoff? A. Yes. I was called to the personnel department at 12:56.

Q. Who called you? A. I was at work. I was instructed by my foreman that they wanted me in personnel.

Q. And who did you see at personnel? A. I saw Mr. Colby and Mr. Coleman.

Q. Was anyone else present besides those two? A. Just myself.

Q. Where did you meet? A. In Mr. Colby's office.

MR. HARVEY: I might add, Mr. Examiner, that we have subpoenaed notes of this particular meeting from Respondent in this connection. It is also my understanding that when any official action is taken of this type, one of the personnel advisors or a witness keeps notes of the conversations that [58] take place, and we have subpoenaed these notes.

Q. (By Mr. Harvey) Would you describe what occurred in Mr. Colby's office that day? A. Mr. Colby just gave me a brief rundown that the Company was forced to lay off personnel and he didn't like having to do this but it would be necessary. And he asked me to sit down and he gave me a list of names and they showed the seniority area and the occupation code, the names of the employees and the amount of seniority each employee had.

MR HARVEY: Would you mark this for identification as

General Counsel's Exhibit No. 3.

[The document above referred to was marked General Counsel's Exhibit No. 3 for identification.]

Q. (By Mr. Harvey) Mr. Tyaack, I show you what has been marked ---

MR. WELLS: May I see it, please?

Q. (By Mr. Harvey) Mr. Tyaack, I show you what has been marked for identification as General Counsel's Exhibit 3 and ask you if that is the list? A. Yes.

Q. This is the list that Mr. Colby gave you that morning? A. Yes.

MR. HARVEY: I move its introduction.

MR. WELLS: I have no objection.

TRIAL EXAMINER: General Counsel's Exhibit No. 3 is

[59] received.

[The document above referred to, heretofore marked General Counsel's Exhibit No. 3 for identification, was received in evidence.]

Q. (By Mr. Harvey) After he gave you the list, what happened?

A. Then he proceeded to read what was on the list before me.

Q. You mean he went down the names? A. He went down the names.

Q. Incidentally, when had you taken office as President of Lodge 700? A. January 18th.

MR. WELLS: What year?

THE WITNESS: 1971.

Q. (By Mr. Harvey) Of that year? A. Yes.

Q. You mean eight days before that? A. I was installed January 18th -- right.

Q. This was your first layoff? A. Right.

Q. What, if anything, did you say? A. I don't recall making any remarks to him about the list. I was quite upset about it.

Q. Was he reading from a copy of General Counsel's Exhibit 3, Mr. Witness? A. I couldn't see what he was reading from.

[60] Q. Was it a list? Describe what he was reading from.

MR. WELLS: He just got through saying he couldn't see what he was reading from.

THE WITNESS: I could only see the back of the notebook and he read the same names that were before me.

Q. (By Mr. Harvey) I see. What happened then? A. I was asked to sign the copy -- one copy -- and return it to him.

Q. And did you? A. Yes.

Q. Go ahead. What else happened at the meeting? A. I had asked him whether the third shift had already been notified -- people who were on layoff -- and he said that they had. And I asked him whether the people on the first shift had been notified and he said they had. And then I told him that I thought that he should have notified the Union prior to the employees themselves.

Q. And what did he say? A. He said -- I don't remember his exact words -- that we had the required notice.

Q. All right. Go ahead. Did anything else happen? A. I was

given a pass to return to the department. I was still out on Union business, so I called the business representative.

Q. Who is that?

[61] A. William Nellis, Jr.

Q. What is William Nellis -- business representative?

A. Business representative.

Q. Is he present in this room? A. Yes.

Q. Would you identify him for us? A. On the right.

MR. HARVEY: Would you stand up, Mr. Nellis.

TRIAL EXAMINER: Thank you, Mr. Nellis.

Q. (By Mr. Harvey) And what, if anything, did you say to Mr. Nellis? A. Well, I wanted to know if he wanted the names off the list -- whether it would mean anything to him. I told him that there had been a layoff and I got the list of names and I didn't know what to do with them. And he said that it would be all right to wait until I came in at the end of the day with the list.

Q. You were working at that time on what shift? A. First shift.

Q. And the hours of the first shift are what? A. 7:00 to 3:30.

Q. And the second shift hours? A. 3:30 to midnight.

Q. Third shift? A. Midnight to 7:30. Midnight to 7:00 o'clock.

[62] Q. At what particular time of day did you make the call to Mr. Nellis? A. It was after I left the office. It must have been around 1:00 or 1:30.

Q. What do you do with a layoff list as President of Lodge 700

when you receive a list like that, Mr. Tyaack? A. Well, I bring it back to the hall and I turn it over to the business representative and they make a check -- we have an employee service record that lists the names of all the employees by department -- and the business representative, with the help of stewards, go through these departments and find the departments in the area of the layoff and then they have to hunt for the occupation code of the employees laid off and check the seniority.

Q. What are the requirements of the layoffs insofar as occupational codes are concerned? A. Layoff is by seniority area and by an occupation code -- seniority within that code and that area.

Q. And you check, did you say, against what type of a list?

A. It is an employee service record.

Q. What is that? A. We receive that monthly. It lists the employees by name and clock number, their labor grades, and it goes by department.

Q. When did this layoff that you were notified about occur? When was it scheduled to be effective?

[63] A. January 28th.

Q. And subsequent to your receiving notification of the layoff, did you write a letter to the Company? A. Yes, I had been informed that in East Hartford the same morning of the layoff, January 25th --

MR. WELLS: I move that this be stricken as not responsive to the question. The question was, "Did you write a letter to

the company?"

THE WITNESS: Yes.

TRIAL EXAMINER: You may ask your next question, Mr. Harvey.

MR. HARVEY: Yes, sir.

Q. (By Mr. Harvey) I show you what has been marked for identification as General Counsel's Exhibit 4, Mr. Tyaack, and ask you to identify that. A. Yes, sir. This is the letter.

~~Q.~~ Had you received any information that caused you to write that letter, sir? A. I had received the information that the union representative in East Hartford had been notified of the layoff January 25th prior to my notice.

MR. HARVEY: I move its introduction.

TRIAL EXAMINER: Is there any objection, Mr. Wells?

MR. WELLS: I have no objection.

TRIAL EXAMINER: General Counsel's Exhibit No. 4 is [64] received.

[The document above referred to, heretofore marked General Counsel's Exhibit No. 4 for identification, was received in evidence.]

Q. (By Mr. Harvey) Did you receive a reply to that, Mr. Tyaack?

A. Yes.

Q. I show you what has been marked as General Counsel's Exhibit 5 and ask you to identify that, please? Is that the reply you received? A. Yes.

Q. Did you receive any further communications from the Company relative to your complaint about layoff notice? A. No.

Q. Do you recall if the Company filed a grievance in connection with your complaint besides the one that you have in your hand there, General Counsel's Exhibit 5 which was the Company's reply to the February 1 letter. Is that correct? A. That is correct.

Q. And the Company was grieving your -- what did this mean to you, Mr. Tyaack, when you received it, as President? A. I really didn't know.

Q. Directing your attention to February 8, 1971, did you attend a third step grievance meeting relative to the Company's grievance? [65] A. Yes.

Q. Who was present at that meeting? A. Frank Schirm, Arthur Colby and Robert Coleman.

Q. And who was present for the Union? A. Myself, Douglas Carter and Anthony Salustro.

Q. Was there a speedwriter there? A. Robert Coleman.

Q. Would you describe what occurred at this third step grievance meeting? A. The Company asked me to explain how they had violated Article 8, Section 5.

Q. And what did you say? Describe the whole meeting to us, Mr. Tyaack. Who said what and when was it said? A. I asked them to proceed with the grievance. It was their grievance and they should proceed with it. They asked me if I felt that they had violated that

Article 8, Section 5, and I said, "Yes", and they asked "How", and I read the article, verbatim.

Q. What article is that, sir? A. Article 8, Section 5, in our contract.

Q. Relative to layoffs? A. Relative to layoffs -- Section 5.

Q. All right. A. They said they had given us notice prior to layoff as was required.

[66] Q. What kind of notice does Section 5 call for?

MR. WELLS: I object. The Contract speaks for itself.

TRIAL EXAMINER: You might introduce the contract, Mr. Harvey.

Q. (By Mr. Harvey) I show you what has been marked for identification as General Counsel's Exhibit 6 and ask you whether or not that is your present contract? A. Yes.

* * * * *

[68] TRIAL EXAMINER: Mr. Harvey, are you going to offer General Counsel's Exhibits 5 and 6?

MR. HARVEY: Yes, sir.

MR. WELLS: I have no objection.

TRIAL EXAMINER: General Counsel's Exhibits 5 and 6 are received.

[The documents above referred to, heretofore marked General Counsel's Exhibits Nos. 5 and 6 for identification, were received in evidence.]

MR. WELLS: May I have a copy of Exhibit 6?

MR. HARVEY: Exhibit 6 is the contract. I don't have an extra copy.

Q. (By Mr. Harvey) Mr. Tyaack, did the company take the grievance any further in the grievance procedure? A. Yes.

Q. And did you attend a Step 4 meeting in that connection on February 16th, 1971? A. Yes.

Q. Who attended this meeting with you?

[69] A. Mr. William Nellis and myself.

Q. Who was there for the Company? A. Mr. McLaughlin, Mr. Schirm, Mr. Colby.

Q. What is Mr. McLaughlin's title?

TRIAL EXAMINER: Is he named in the complaint?

MR. HARVEY: I don't believe so. I believe he is industrial relations administrator.

TRIAL EXAMINER: Is that right, Mr. Wells?

MR. WELLS: That is right.

Q. (By Mr. Harvey) Describe what happened at this fourth step meeting, please, Mr. Witness. A. Mr. Nellis presented the case for the Union. I took notes.

Q. Mr. Nellis is a business representative? A. Yes.

Q. Now, after this layoff of January 26, 1971, that you have told us about and described, did the Company ever again notify employees of a layoff before they notified the Union? A. Yes.

Q. Directing your attention to February 3, 1971, was there a

layoff notification given you on that date? A. Yes.

Q. Who gave you that notification? A. Mr. Colby and Mr. Coleman.

Q. Where was that given?

[70] A. In Mr. Colby's office.

Q. Would you describe what he said and what you said. A. He, again, told me that there would be a layoff and he handed me the list with the names of employees and the number of weeks seniority they had and I asked him if the third shift had been notified already and he said, "Yes", and I asked him if the first shift had been notified, and he said, "Yes".

Q. That layoff was to be effective when? A. February 5th.

Q. And you met with him in the afternoon of the 3rd? A. The afternoon of the 3rd.

* * * * *

[77] CROSS EXAMINATION

[83] Q. (By Mr. Wells) In your letter to Mr. Colby dated February 1, 1971, which is General Counsel's Exhibit No. 4, you

[84] say that Mr. Gordon Sawyer and business representative Higgins were notified by Mr. Schirm at a fourth step meeting in East Hartford that an unknown number of employees would be laid off at the Middletown and North Haven plant of Pratt Whitney Aircraft. When were they notified? Do you know? A. Who is "they"?

Q. I just read their names -- Mr. Higgins and Mr. Sawyer?

A. You also mentioned the plants. It was the morning of January 26. I believe it was around 9:00 o'clock in the morning.

Q. And when were you notified of this layoff which was effective on January 28, 1971? A. January 26, 12:56.

Q. So what was your complaint, that Mr. Sawyer and Mr. Higgins had been notified two or three hours earlier than you?

MR. HARVEY: Objection. I think the letter speaks for itself.

TRIAL EXAMINER: Overruled.

THE WITNESS: It was a statement of fact.

Q. (By Mr. Wells) Were you complaining that they had been notified two or three hours earlier than you. A. I stated that they were.

TRIAL EXAMINER: Is it the Union's position, Mr. Tyaack, that you must be notified first of a layoff before any employee is so notified?

[85] THE WITNESS: Article 5, Section 8.

TRIAL EXAMINER: What is your interpretation -- Mr. Ratner, please, would you refrain. Mr. Tyaack?

THE WITNESS: As early as possible -- as practicable.

TRIAL EXAMINER: Before the employees are notified?

THE WITNESS: As is practicable.

TRIAL EXAMINER: The complaint is the Company notified the employees before they notified the Union?

THE WITNESS: Yes.

TRIAL EXAMINER: Does the Company contest that this is the procedure that was followed?

MR. WELLS: We have no question that the third shift employees and some of the first shift employees are notified as soon as the layoff list is determined. I don't understand. Is is the General Counsel's position that it is a violation of the act to notify some employees prior to the notification of the Union?

TRIAL EXAMINER: I think what he is saying is that it is a violation of the contract agreement, sufficient to give evidence of a refusal to bargain.

MR. HARVEY: It is also our contention, Mr. Examiner, and we will show that because of this deliberate pattern at all three plants, it is embarrassing and degrading to the Union.

TRIAL EXAMINER: So far as facts are concerned, to stay away from argument, I take it that the Company concedes that [86] its practice is to notify the employees who are to be laid off -- or at least on some occasions to notify them first -- and the Union later. You are not disputing that fact?

MR. WELLS: Our practice for 20 years in all the plants has been to notify the Union, provide the Union with a complete layoff list, on the same day that the employees are notified. The result is some of the employees will be notified before the Union actually gets this list.

[86] TRIAL EXAMINER: Depending upon the shift?

MR. WELLS: Depending upon the shift.

TRIAL EXAMINER: Are you claiming, Mr. Harvey, that the practice goes beyond that?

MR. HARVEY: We are claiming, Mr. Examiner -- yes -- that it does and that in many instances the layoff lists are withheld and actual notice of layoff and notification to the Union officials are withheld in order to accomplish this unilateral notification.

TRIAL EXAMINER: For more than a day?

MR. HARVEY: No, sir.

TRIAL EXAMINER: Mr. Wells has raised the point that, if you have, I take it the third shift may be notified during the morning hours -- the Union could not be notified -- or notified somewhere in the afternoon before the second shift is given notice. Is that correct?

MR. WELLS: That is right. They are always notified [87] before the second shift is given notice.

* * * * *

[94] Q. (By Mr. Wells) Mr. Tyaack, how long had you been a grade four toolmaker? Is that what you were hired in as?

A. I forget the exact amounts before I made "J" rate.

Q. You made "J" rate when? A. I don't recall exactly.

Q. A few months after you were hired? A. Yes.

A. How long did you stay at "J" rate? A. It was until April

of '69.

Q. April of '69? A. I was hired March, '67.

Q. And you then progressed automatically to "J"? A. Yes.

Q. And you stayed there until some time in '69? A. April.

Q. April of '69. And in April of '69 you received a merit rating of "R"? A. Yes.

Q. And then you had another merit rating after that? A. Yes.

Q. What was that -- "R" again? A. Yes.

Q. That would have been about November of '69? A. '69 -- right.

Q. And then in March of 1970 you had another merit rating?

[95] A. Yes.

Q. And that was also "R"? A. Yes.

Q. And November 16, 1970, you received another merit rating?

A. Yes.

Q. And that was "R" also. Is that correct? A. Yes.

Q. I hand you what I have marked as Respondent's Exhibit

No. 1 and ask you if this is the merit rating that you received

November 16, 1970? A. As best I can recall.

Q. The Union received copies? A. Yes. This is a copy.

Q. And when you went from "J" to "R" in 1969, did you receive an increase in pay? A. I got the merit increase. I changed shift. I don't know how that wound up.

Q. You got a raise, didn't you. A. I got a raise under the

merit rating.

Q. And you were rated on this form which states that your performance has been unquestionably better than the standard of competency by a marked degree and for the full rating period. Is that right? A. Yes.

Q. At the time you received that rating, what were you, a [96] shop committeeman, in March of 1969? A. When i received it -- yes. No -- wait -- March, '69, is this?

Q. Yes.

TRIAL EXAMINER: Mr. Wells, I don't think the question of whether his rating was fair or not has been put into issue, but only whether the Union was supplied with information necessary to judge whether they wanted to grieve about it or not or how far to carry the grievance. Your questions seem to be directed to the merit of the rating, which I don't think is the issue.

MR. WELLS: I think you will find in other portions of the complaint there is a --

TRIAL EXAMINER: He has not testified to anything in his direct examination other than the failure to supply information. I would limit you to the scope of the direct examination.

MR. WELLS: All right.

Q. (By Mr. Wells) Did you ever file a formal grievance protesting the merit rating you received? A. This one?

Q. Yes. A. No.

Q. You never filed a grievance? A. (Shaked head.)

[97] Q. You simply asked a steward to come and talk about it. Is that your testimony? A. This one here?

MR. GORDON: Would you show the witness a copy of what you are talking about.

TRIAL EXAMINER: November 16, 1971.

Q. (By Mr. Wells) November 16, 1970. A. This one I did grieve.

Q. You did? A. Yes.

Q. And then I believe you testified you filed another grievance on January 25, 1971. Is that right? A. (Shakes head.)

MR. RATNER: You will have to speak your answer, Mr. Witness.

THE WITNESS: No.

Q. (By Mr. Wells) Did you testify that you had filed a grievance in November of 1969? A. Yes.

Q. Then did you testify that on January 25, 1971, you called a steward? A. No.

Q. When was it that you called Havener to talk to your foreman about your merit rating? A. That was June 17, 1970.

[98] Q. Now, subsequent to that, you received another merit rating, which is Respondent's Exhibit No. 1, didn't you? A. November 16, 1970?

Q. Yes. Did you file any grievance about this? A. Yes.

Q. What happened there. Did you testify about that? A. No.

Q. Well, what occurred? Tell us. A. Well, I approached my foreman and I again asked him that I had received my merit rating and that it was "R" and was this correct and then I asked him if this meant no further raises and he said that that was correct and then he said, "Let's sit down and talk about it" and I sat down at his desk and he said, "You seem to think that just by filing a grievance you will get an increase in your pay".

I told him, "No, this wasn't it at all" that I felt I put an honest effort into my work and I wanted to know why I wasn't getting ahead. He then told me that as far as he was concerned I was just there biding my time and I then asked for a shop steward.

Q. He said that as far as he was concerned -- A. I was just there biding my time.

* * * * *

[99] Q. (By Mr. Wells) Has the Union issued any instructions to the stewards concerning how they should handle merit grievances?

A. Well, yes, they are instructed --

Q. Special instructions with respect to merit rating grievances?

A. No.

Q. Just all grievances? A. All grievances. They have classes.

Q. In those classes do you issue any written instructions to them? A. We have a form for writing.

[100] Q. You have a form for writing? A. How to write up the

grievance.

Q. Do you have instructions as to how to present a grievance and how to proceed to handle the matter? A. Yes.

* * * * *

[102] Q. (By Mr. Wells) Did you ever ask your foreman what would be required of you to warrant a "P" rating or "T" rating? A. Yes.

Q. What did he tell you? A. To keep on working the way I am working -- that he would be satisfied.

Q. Did he tell you that you had been improving all the time? A. Yes.

Q. And that he had noted that improvement on your rating? A. Yes.

Q. And that in due time, if you continued just as you were, you would be rated higher if you continued to improve. Isn't that what he told you? A. Yes.

Q. Substantially? A. Yes.

[103] MR. WELLS: I offer Respondent's Exhibit No. 1 in evidence.

TRIAL EXAMINER: Are there any objections?

(No response.)

TRIAL EXAMINER: Respondent's exhibit No. 1 is received.

[The document above referred to, heretofore marked Respondent's Exhibit No. 1 for identification, was received in evidence.]

* * * * *

[151] RECROSS-EXAMINATION

Q. (By Mr. Wells) How many contracts has Lodge 700 had prior to the instant contract with the Company? Do you recall? A. Five, I believe.

Q. And this provision, which is Article 8, Section 5, was that the same provision in each one of the contracts? A. Yes.

Q. Did you participate in negotiations in these several contracts? A. Yes.

Q. Did the Union ever make any effort in negotiations to change the provision? A. To change the exact wording of it -- no.

[152] Q. To change the intent of it -- the operation of it? A. I believe in the last negotiations in 1968 there was some discussion.

Q. What was the discussion? A. I don't recall. I know there was some discussion on it.

Q. Did you ask the Company to agree to a different provision?

A. The general discussion on layoff and on notification and the whole bit, but I couldn't tell you now.

Q. Did you ask the Company to change it -- to give you specific notice in times -- like five days, ten days? A. I don't recall.

Q. Did you ask for any substantive change in the contract provision? A. There were substantive changes in there requested, but I don't recall what they were.

TRIAL EXAMINER: With respect to this provision?

THE WITNESS: With respect to the whole provision -- with respect to the whole article. That one provision, I don't recall just what the discussion was on it. I know there was some discussion on it, but I don't recall exactly what it was. The only thing I could say would be just conjecture right now. I couldn't give you a definite answer.

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[153] MR HARVEY: Mr. Examiner, I have marked for identification as General Counsel's Exhibit 7, with several sub-sections, the following documents which have to do with the arbitration of a grievance by one Michele Urbanowicz, who was employed at the Middletown plant, Pratt and Whitney, and the evidence that I am about to offer goes to paragraphs 12 (j) -- (i) and (j) -- of the complaint, sir.

The following are the exhibits that I have marked.

TRIAL EXAMINER: Before you start to get into the exhibits, we requested yesterday that the Company stipulate to the findings of fact made by the arbitrator.

MR. HARVEY: That is correct.

TRIAL EXAMINER: With respect to (i) and (j).

MR. HARVEY: That is correct.

TRIAL EXAMINER: The Company refused to so stipulate.

MR. HARVEY: That is correct.

TRIAL EXAMINER: What would be the point of having these documents come in?

MR. HARVEY: I am going to introduce them into evidence [154] and ask you to take official notice of them, which I think is entirely within your authority and province.

TRIAL EXAMINER: And you wish me to base my ruling on the exhibits alone -- on GC-7 -- without any further testimony?

MR. HARVEY: That is correct, sir.

MR. WELLS: I object to this procedure.

TRIAL EXAMINER: Whether they will be sufficient or not as a matter of law, I will judge.

MR. HARVEY: That is correct.

TRIAL EXAMINER: I will accept GC-7.

MR. HARVEY: GC-7(a), which is a covering letter enclosing the arbitration decision of Arbitrator Charles O. Gregory, dated May 7, 1970;

GC-7 (b), which is a transcript by the Post Reporting Service, of the labor arbitration, on January 21, 1970;

GC-7 (c), which is Union's Exhibit 6 in that proceeding;

GC-7 (d), which is Union's Exhibit 8, in that proceeding;

MR. WELLS: Are all the exhibits to go in?

MR. HARVEY: No. I have selected the exhibits that I would put it.

MR. WELLS: If your Honor please ---

TRIAL EXAMINER: Both parties will discuss eventually in their briefs the propriety of my making a finding based on this exhibit.

MR. WELLS: I am just inquiring, if I may. Is it General [155] Counsel's intention to take selective parts of the transcript and exhibits and the decision ask the arbitrator, on the basis of that ---

MR. HARVEY: It is General Counsel's contention that these are the facts that we contend support the allegations that I have

described in the complaint. And we are asking the Trial Examiner to take official notice of it.

If Respondent feels that all the exhibits should go in, then Respondent is perfectly free to offer his own exhibits. He was a party to this arbitration. These are facts and evidence that we are asking the Trial Examiner to take official notice of.

TRIAL EXAMINER: I can take official notice that a decision was made in the arbitration proceeding and that certain facts and findings were made. Whether I can find, without any other fresh testimony in this case, that that would be a sufficient basis, frankly, I don't know. At the moment, I would expect Counsel to present me with authority.

MR. HARVEY: I am putting this in in support of the allegation.

TRIAL EXAMINER: I understand that. It is clear. You may continue identifying the documents that will comprise General Counsel's Exhibit No. 7.

MR. HARVEY: General Counsel's Exhibit 7 (e), which is Union's Exhibit 1 in that proceeding; General Counsel's Exhibit [156] 7 (f) ---

MR. WELLS: Go just a little bit more slowly, or do you have copies of these to supply to me?

MR. HARVEY: Yes, I do.

MR. WELLS: In that case, I won't scribble them down.

MR. HARVEY: If I may beg the indulgence of the Examiner

for a moment to make sure I have these correct.

General Counsel's Exhibit 7 (f), which is Union's Exhibits 8 and 9 in that proceeding; General Counsel's Exhibit 7 (g), which is Union's Exhibit 7 in that proceeding; General Counsel's Exhibit 7 (h), which is Union's Exhibit 2 in that proceeding; General Counsel's Exhibit 7 (i), which is Joint Exhibit B in that proceeding; General Counsel's Exhibit 7 (j), which is Union's Exhibit 4 in that proceeding; General Counsel's Exhibit 7 (k), which is Union's Exhibit 3 in that proceeding; General Counsel's Exhibit 7 (l), which is the brief for the Union to the arbitrator in that proceeding; and General Counsel's Exhibit 7 (m), which is the Company's brief to the arbitrator in that proceeding.

I move the introduction of General Counsel's Exhibit 7.

TRIAL EXAMINER: Is there any objection, Mr. Wells?

MR. WELLS: I object to it. I don't know what it is supposed to prove.

TRIAL EXAMINER: Is the point, Mr. Harvey, that the Union and the Company agreed to certain facts in that proceeding?

[157] MR. HARVEY: Not only in that proceeding but in the procedure, facts were elicited, cross examination was made and facts were established. I think it is a proper subject of official notice.

TRIAL EXAMINER: It may be the subject of official notice but is it a sufficient substitute for testimony in this proceeding? If that is your position ---

MR. HARVEY: General Counsel contends that it is.

TRIAL EXAMINER: General Counsel's Exhibit 7 is received.

[The documents above referred to, heretofore marked General Counsel's Exhibit No. 7 (a) through (m), inclusive, for identification, was received in evidence.]

MR. WELLS: What is it being received for?

TRIAL EXAMINER: In connection with the allegations of the complaint 12 (i) and (j). I share your misgivings, Mr. Wells, on whether legally this is sufficient, but I will accept it subject, as I have mentioned.

MR. WELLS: I object to it on the grounds of competency. Is the Trial Examiner ruling that this is competent evidence?

TRIAL EXAMINER: At the moment, I am not prepared to rule that it is competent. I reserve my ruling.

* * * * *

[198]

NATHANIEL B. MORSE

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

* * * * *

[199]

DIRECT EXAMINATION

Q. (By Mr. Harvey) What is your name and address, sir, please?

A. Nathaniel B. Morse, 23 Rillbank Terrace, West Hartford, Connecticut.

Q. Are you employed by United Aircraft? A. I am.

Q. In what capacity? A. Industrial Relations Director.

Q. How long have you been Industrial Relations Director? A. Since 1967.

* * * * *

[279] Q. (By Mr. Harvey) What instructions have you given your foremen as to documents and production records to use then, sir?

A. You have some material there?

Q. I asked you the question, Mr. Morse. A. Excuse me, I was attempting to answer it, Mr. Harvey.

Q. Go ahead. A. Thank you, I appreciate not being interrupted.

You have the documents, and you will see that what we have that we tell the foremen is that the merit rating system is not an objective system. It is subjective, and it must be based upon the foreman's daily observations of what the man makes, what he does, how effectively he does it, whether or not when he finishes a job he's alert to call for others. We have said repeatedly that the employee performance rating system is a totally subjective evaluation of the man's performance by the man for whom he works and who is in intimate daily contact.

* * * * *

[286] Q. The foreman's standards, that is what he -- an employee -- produces against? A. Yes.

Q. And what goes into making up that foreman's standards is in the foreman's head, is that your testimony? A. Essentially that, right.

* * * * *

[550] Q. (By Mr. Harvey) Mr. Morse, I show you what has been marked for identification as General Counsel's 22 (a) through 22 (q) and ask you if you will identify, please, what 22 (a) is? A. 22 (a) is the current employee performance rating given to the employee named thereon and the preceding rating as made by supervision for the employee named thereon, Conrad Tyaack.

Q. And the hourly employee performance rating is conducted every six months, regularly, Mr. Morse? A. Yes. Every employee is rated at approximately six months' intervals.

Q. And that is the same hourly employee performance rating that is discussed in the Supervisory Employee Relations Manual?

A. Yes, sir.

MR. HARVEY: I would move their admission, Mr. Examiner.

TRIAL EXAMINER: I take it there is no objection?

MR. WELLS: No.

TRIAL EXAMINER: General Counsel's Exhibit 22 (a) through 22 (q) are received.

[The documents above referred to, heretofore marked General Counsel's Exhibit No. 22 (a) through 22 (q), inclusive, for identification, were received in evidence.]

* * * * *

[591] Q. Mr. Morse, I show you what has been marked for identification as General Counsel's Exhibit 32 and ask you whether or not that is the complete copy of the supervisor's Employee Relations Manual that you brought with you pursuant to the subpoena? A. No.

Q. It is not the complete copy? A. No.

Q. In what aspect is it incomplete? A. We removed two sections from it on Employee Performance Rating and Grievance Handling and submitted those to you separately -- section 100 --

Q. And section 430? A. And section 430, I believe that is correct.

Q. Aside from those two particular sections, namely section [592] 100 and section 430, is that complete or would you satisfy yourself that it is complete. A. I have no way of knowing, Mr. Harvey, except to check it against the index. It is the copy maintained in our office. It is Mr. Mooney's copy.

Q. When you supplied it, in any event, it was complete?

A. It was as up to date as we receive inserts for.

Q. And the S.E.R.M., to which I will refer to it in my questions, are issued to all foremen? A. Yes.

Q. Who else are they issued to? A. Various higher levels of supervision who may have interest in it. In some instances, general foremen. In some instances, divisional superintendents. It is also issued to certain salaried -- or supervisors of -- salaried employees.

Q. Do the personnel advisors each have a copy of it? A. Their office has a copy. Whether individually they have one, I don't know, Mr. Harvey.

MR. HARVEY: Mr. Examiner, I move the admission of General Counsel's No. 32 in its entirety.

* * * * *

[597] [The document above referred to, heretofore marked General Counsel's Exhibit No. 32 for identification, was received in evidence.)

* * * * *

[624] Q. (By Mr. Harvey) Mr. Morse, I direct your attention to two
[625] exhibits that have been marked for identification as General Counsel's Exhibit 34, which is entitled "Employee Performance Rating" and General Counsel's Exhibit 34 (a), which is entitled "Definitions of Performance Rating Factors for Hourly Employees" and I ask you, sir, whether or not these are two documents of instructions to the employees of the Wage and Salary Division relative to their role in the merit rating program? A. I don't believe so.

Q. Would you explain what they are please, sir. A. I believe that General Counsel's 34 -- Mr. Harvey, I am not, now as I look at them, certain. One of them is a document issued to the analyst of the wage and salary section and the other is a document that meets one of the requirements under the subpoena of documents or instructions given to supervision in connection with the employee performance rating plan.

Q. Now, would you tell me which is the document that is given to the Wage and Salary Division employees? A. That is my problem at the moment. They are very similar and my recollection is unclear at the moment as to which one is which.

MR. HARVEY: Perhaps Counsel can help us? Can you tell us, Counsel?

MR. WELLS: I don't really know.

Q. (By Mr. Harvey) With respect to the document that you testified was given to supervision relative to the merit rating program, would this also have been circulated to the supervision [626] of the Wage and Salary Division? A. If I recall the subpoena, it is given to them -- given to supervision -- whichever of these two documents it is -- is given to them by the Wage and Salary people to assist them in the rating of employees.

Q. Can you tell us definitely whether or not both of these documents -- 34 and 34 (a) -- are not given to the Wage and Salary employees? A. No. It is my recollection, as I have already testified, that one is issued to the Wage and Salary analysts, themselves, by Wage and Salary supervision. The other is issued to supervision. But which one is which, I am not certain at the moment.

Q. Can you endeavor to find out the answer to those question and let us know? A. Certainly. I would be happy to.

Q. Thank you.

MR. HARVEY: I move the admission of General Counsel's 34 and 34 (a) and I don't know if Mr. Gordon has any question or not.

MR. GORDON: I think that General Counsel adduced sufficient information to justify a motion for their admittance into evidence and I won't take up further time.

MR. WELLS: I have no objection.

TRIAL EXAMINER: General Counsel's Exhibit 34 and 34 (a)

are received.

[627] MR. HARVEY: Thank you.

[The documents above referred to, heretofore marked General Counsel's Exhibit No. 34 and 34 (a) for identification was received in evidence.]

* * * * *

[628] Q. (By Mr. Harvey) Incidentally, Mr. Morse, the wage and salary, is it called the wage and salary administration division?

A. Just stop after administration, or wage and salary section of the Personnel Department.

Q. That was my question. They are part of the Personnel Department? A. Yes, they are.

Q. By the way, what is their role in the merit rating process?

A. They are the responsible arm of the Personnel Department for issuing the rating sheets and tools necessary to carry out the rating of employees. They are the persons who score the ratings after they are returned by supervision, and they are the department who create the change of status that is processed if the employee performance rating calls for a wage increase. They initiate it and send it to supervision for their signature and processing through payroll.

Q. By tools, they issue what tools relative to the merit rating?

A. The rating cards.

Q. Cards similar to Respondent's Exhibit 1, is that the actual rating card that you mentioned? A. Yes, that is correct.

[629] Q. And these are issued to the foreman by the wage and

salary employees? A. Yes.

Q. Do you have your production area foremen broken down by groups and assigned to wage and salary people? In other words, to rephrase it, are wage and salary employees relative to the merit rating system assigned a group of, say, production departments employees and their performance? A. I don't know. I know that is true for job evaluation.

Q. But you don't know if it is true for wage and salary? A. No, I don't.

Q. Can you find that out for me? It would seem likely --

TRIAL EXAMINER: Well --

MR. HARVEY: All right, withdrawn.

Q. (By Mr. Harvey) Now then, when a foreman evaluates an employee, using Respondent's Exhibit 1 as you have testified, he marks the various boxes according to his judgment, according to his evaluation of the employee, but he does not score the point system that results from his markings, is that right? A. That is right.

Q. And that is done by the wage and salary section? A. Correct.

Q. Are the point systems that they apply weighted in any way relative to the various factors? A. Yes.

[630] Q. Could you explain how they are weighted, please? A. I can explain it in general terms. I cannot explain it specifically because I don't know the specific weights that are given to them. I have long since forgotten them, if I did in fact know them; nor do I know the

points assigned to any particular box; nor did I ever know them. But accuracy and output are heavy weighted factors in the resultant rating of the employee than is cooperation, for example, which is another factor. But the degree to which they differ, I don't know.

Q. Now, do you have any writing or publication or instruction that would contain that material, Mr. Morse? A. Yes, I'm sure there is, and I'm sure it is also in the possession of the Union. I'm not certain but what it is among the documents that you have subpoenaed. I believe it is.

Q. The weighting and the points assigned to the various merit ratings? A. The weighting was all I understood in your question. As to the points, that has never been issued to supervision. It is purposely not done so because we don't want somebody rating for a specific number of points. However, we are not so naive not to realize that people do in time acquire that information.

Q. Do you have any writing or documents that would contain [631] that information? A. Here?

Q. Yes, here or if not here, at the plant. A. Certainly at the plant because you have to have it in order to score the ratings, but not here because I don't believe it is covered under the subpoena in any manner.

Q. Would you endeavor to produce a copy for us, please?

MR. WELLS: Well, what is the General Counsel attempting to do? What is the relevance of the different points, for example, for

the different boxes here, and we are getting into purely mechanics. There is no suggestion, as I understand it, that the Union has been denied such information. In fact, they have it we know. What is the point of getting these mechanical things in here?

MR. HARVEY: Mr. Examiner, I think it is critical from the point of view of understanding the problems confronting the Union insofar as the administration of the merit rating system and also in understanding the merit rating and the answers given relative to merit rating at the higher steps of the grievance procedure.

TRIAL EXAMINER: As far as the system is concerned, doesn't the Union have in its possession the weight given to these factors?

THE WITNESS: Yes, they do.

Q. (By Mr. Harvey) In what form?

[632] A. They have been educated as to the point system. They have it in their possession.

Q. Have you supplied it in a particular form to them, Mr. Morse? A. We supplied it in educational classes. They wrote it down, and they published it in one of their fliers.

Q. What about the points? A. That's what I am talking about.

Q. I thought you said that you did not publicize the points relative to the merit rating? A. You're quite correct, but the Union on receiving them from the Company did publish them. The supervisors are not provided them, and the supervisors do not know

what the point scoring is unless they read the Union's flier or unless they figured it out for themselves, which I'm sure they have.

Q. When was that flier issued?

TRIAL EXAMINER: Mr. Harvey, at such time as you put in the rest of your case, we'll worry about these points, this point system. I don't think this is the time to worry about them now.

Q. (By Mr. Harvey) Are they given specific instructions relative to the operation of the merit rating system, Mr. Morse?

A. The employees are acquainted with the system both in terms of the general statement that we have and the employee merit rating system as opposed to others at the time they [633] are hired and they receive an Employee Handbook in which the system is explained.

Q. Are they given the point values also in that Handbook?

A. I have already testified nobody is issued the point values, Mr. Harvey, except in educational classes that were given to the Union many years ago, and they are the only ones who published them.

TRIAL EXAMINER: Mr. Harvey, I wish you would go to some other line of questioning. Until it becomes clear in this case that a specific point value or point values are not available to the Union or that they don't have them in some way and how they do relate, it seems we can skip the matter for the moment. If they have them, we're wasting a lot of time.

MR. HARVEY: I'm also examining Mr. Morse under 43 (b).

I think it is relevant and important and leading up to my next question.

TRIAL EXAMINER: Ask it, ask the next question.

Q. (By Mr. Harvey) The SCRM requires that upon request the foreman or supervisor supply the employee with a copy of his merit rating and also requires an explanation of that, does it not, Mr. Morse?

MR. WELLS: Objection.

TRIAL EXAMINER: Overruled.

MR. WELLS: May I just pose the reason for the objection?

[634] The contract provides, and it is in evidence, that the employee upon request will be given his rating. It does not say that he will be given a copy of his rating. That is in the contract.

The question presupposes that he was given a copy of the rating.

TRIAL EXAMINER: I don't understand the objection.

MR. WELLS: The question was premised on a fact not in evidence.

TRIAL EXAMINER: Mr. Harvey, will you reframe your question?

MR. HARVEY: Yes, sir.

Q. (By Mr. Harvey) Are foremen instructed, Mr. Morse, to supply both an explanation and a written description of their latest merit rating when they request one, sir? A. No.

Q. What are the foremen required to do insofar as the Company's policies and practices are concerned when an employee requests his

merit rating from him? A. Tell him what it is and explain it to him.

Q. It is not a practice, a widespread practice of the foremen to write down the letter on a scrap of paper and give it to the employees?

A. If the employee asks for it, we certainly encourage them to do so.

[635] Q. As for what, the merit rating? A. Ask for the specific rating in each factor.

Q. If he does not specifically ask for it, he is not given anything in writing, is that right? A. I don't even know that he is given the slip of paper that you referred to in writing, but if an employee wants to know more than the fact that he is rated "J" or above standard "R" or "P" which is premium or "T" which is top, which is the only thing that actually counts in determining what he will or won't get in terms of money, and the employee says, "I would like to know how you rated me in each of these factors," the foreman will get that information for the employee and tell him what it is. He does not have a form, nor does he, is he required to present it to him in some written fashion. That some foremen may, I am sure they do.

* * * * *

[692] Q. (By Mr. Harvey) Mr. Morse, I hand you what has been marked for identification General Counsel's Exhibit 40 (a) through 40 (g), and ask you whether or not these are partially the minutes of the second step grievance meetings that were requested in the subpoena served upon you, sir? A. They're complete, Mr. Harvey, insofar as they deal with the subpoenaed persons. The minutes are complete

insofar as they deal with the person named in the subpoena -- his grievance.

Q. Yes, that's correct, sir -- specified. Right. Then on the bottom -- just to clarify this -- I note on General Counsel's 40 (a) there is typed in there, Item 11. That is not part of the minutes, are they? A. No, sir. That refers to the item in the subpoena to which the minutes refer, and similarly on 40 (b), etcetera.

Q. That's right, it refers to the paragraph number of the subpoena?

A. Right.

MR. WELLS: Not the paragraph number of the subpoena?

THE WITNESS: Yes

MR. HARVEY: The item number.

[693] THE WITNESS: The Item 11 that's on the bottom of 40 (a) in the subpoena, will be the second step minutes dealing with Conrad Tyaack.

Q. (By Mr. Harvey) Now, Mr. Morse, does the Company cause minutes to be taken at Steps 2, 3, and 4 of the contract grievance procedure? A. Yes.

Q. How are these minutes recorded? Who takes them? A. They're taken by various members of the personnel organization, in longhand, as best they're able to do it.

Q. And later, what happens to them? Are they dictated? A. They dictate them. They are subsequently typed.

Q. Are the typed copies returned to the participants in the meeting

for any changes, modifications, or corrections? A. Yes.

Q. Then, what happens to them after that stage? A. They -- the corrections are either sno-paked on the original typed copy -- that being a process of obliterating a mis-spelling or something of that kind, and then typing over the sno-pake so that it reads correctly.

Or, if there is more involved, it is typed on a separate piece of paper and then the two documents spliced together with a piece of masking tape, and then Xeroxed, and the originals are destroyed.

Q. Now, when the destruction takes place, is the original [694] typed copy, with the pasted on or sno-paked corrections -- is that what's destroyed? A. Yes.

Q. Only Xerox copies remain. Is that right? A. Yes. Unless there happens to be a page on which there may not have been any change, but generally the girls will Xerox the entire document, because of the multiple copy requirement, and all the originals are destroyed.

* * * * *

[697] [The document above-referred to was marked General Counsel's Exhibit No. 41 for identification.]

MR. WELLS: Can we stipulate that the witness was questioned the same questions about these, and the answers were the same as for General Counsel's Exhibit 40?

MR. HARVEY: So moved.

TRIAL EXAMINER: General Counsel's 41 is received.

[The document above-referred to, heretofore marked General Counsel's Exhibit 41 for identification, was received in evidence.]

* * * * *

[712] [The documents above-referred to were marked General Counsel's 46 and 47 for identification.]

MR. WELLS: The bargaining unit you are talking about there is the bargaining unit covered by General Counsel's Exhibit No. 47 or General Counsel's Exhibit No. 47 is the contract covering the bargaining unit described in Paragraph 10 (c) of the complaint, is that right, Mr. Harvey?

MR. HARVEY: I'll have to check it, Mr. Wells.

MR. WELLS: Here it is.

MR. HARVEY: I'll take your word for it.

TRIAL EXAMINER: That's of production and maintenance employees at the Windsor Locks Plant?

MR. WELLS: That's right. And General Counsel's Exhibit No. 46 is the contract covering the bargaining unit described in Paragraph 10 (a) of the complaint. That's all?

MR. HARVEY: The contract between Lodge 700 and United Aircraft Corporation, Pratt & Whitney Aircraft, at Middletown is now in evidence, GC-6.

TRIAL EXAMINER: You're now offering GC-46 and 47?

[713] MR. HARVEY: That is right.

MR. WELLS: No objection.

TRIAL EXAMINER: General Counsel's 46 and 47 are admitted.

[The documents above-referred to, marked General Counsel's 46 and 47, were received in evidence.]

* * * * *

[830] MR. HARVEY: Mr. Morse, I show you what has been marked for identification as General Counsel's Exhibit 55 and ask you whether or not that is the employee report relative to the discipline of employee, Gary J. Raymond that you supplied pursuant to the subpoena issued to Mr. Schirm for the periods indicated there on.

THE WITNESS: This is an employee report for Mr. Raymond recording the fact of his suspension, and the face and reverse [831] side of the employee report are shown on this document 55.

MR. HARVEY: That which appears under the word, received, is the reverse side? Below that?

THE WITNESS: Yes, that's the stamp that was put on it after it was received, but you are quite correct, that is the reverse side of the document that appears immediately above it.

MR. HARVEY: Correct.

[The document above referred to was marked General Counsel's Exhibit No. 55 for identification.]

MR. WELLS: Let me ask one or two questions on it of the witness. I notice this employee report is not signed by the employee?

THE WITNESS: That is correct.

MR. WELLS: I note, however, on the back it is signed by some person who is apparently the general foreman, is that correct?

THE WITNESS: That is correct.

MR. WELLS: Under what circumstances does there appear on the employee reports a signature on the back?

THE WITNESS: Where, upon the issuance to the named employee, in this case Mr. Raymond, the employee declines to sign the employee's report, as I earlier testified to, I believe, a fellow member of supervision is brought in and in the presence of the employee, Mr. Raymond, the report is read [832] to him in the presence of the second supervisor, and that second supervisor certifies by his signature on the reverse side that the employee named in this report was warned by this supervisor in my presence concerning the subject matter contained therein.

MR. WELLS: I have no objection to its admission.

TRIAL EXAMINER: General Counsel's Exhibit 55 is received.

[The document, heretofore marked General Counsel's Exhibit No. 55 for identification, was received in evidence.]

[833] Q. (By Mr. Harvey) Mr. Morse, did you participate in that disciplining of Mr. Raymond on that particular occasion, GC 55?

A. I was aware of it. I didn't participate; I didn't make a decision, Mr. Harvey.

Q. You were just notified that that was going to occur? A. Yes. I was notified that that had occurred.

Q. Oh, after the fact? A. I'm not absolutely certain, Mr. Harvey. I know of the incident, the altercation between he and the supervisor; and I knew it was under investigation.

Q. He didn't have an altercation with the supervisor, did he, sir; that wasn't the basis of the discipline, was it? A. I believe that was the gentleman who was calling the supervisor names.

Q. Oh, I see. A. And swung and missed and hit a pencil on his hand, as I recall it.

Q. Is that the version you got? A. Well the investigation file is here, sir; and it sets forth the facts, as we knew them.

* * * * *

[841] Q. (By Harvey) Mr. Morse, I show you what has been marked for identification as General Counsel's 57 and ask you whether or not that his the investigative file, the memorandum transmitting the investigative file - 57a is the investigative file relative to the incident of Gary Raymond which you have supplied pursuant to Mr. Schirm's subpoena? A. Yes, Mr. Harvey, except I would refer to GC 57 simply as the cover sheet.

Q. All right. 57 being the cover sheet and 57a being...

A. Being the investigation filed.

MR. HARVEY: I move for its admission.

MR. WELLS: No objection.

TRIAL EXAMINER: General Counsel's Exhibit 57 and 57a are received.

[The document heretofore marked General Counsel Exhibit 57 & 57a was received in evidence.]

* * * * *

[866]

RUSSELL ALLEN LEE

a witness called on behalf of the General Counsel and, having first been duly sworn, he was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. Harvey) May we have your name and address for the record? A. Russell Allen Lee, 277 Elm Street, Windsor Lochs County.

Q. Mr. Lee, are you presently employed at United Aircraft Corporation, a division of Hamilton Standard Divisions? A. Yes, sir.

Q. When were you first employed by them? A. July 1966.

Q. And what were you hired as when you first came there?

A. Sheet metal trainee.

Q. Now directing your attention to July, 1970, what department did you work in? A. Department 157, Sheet Metal.

Q. And what was your job title at that time? A. I believe it was sheet metal worker.

Q. Who was your foreman?

[867] A. James Cain.

Q. And your general foreman? A. Russell Guluska.

Q. And who was your supervisor? A. The supervisor was John Whitehead.

Q. On or about July 23rd, 1970, were you elected shop steward?

A. Yes, sir.

Q. And how old were you at the time, sir? A. Twenty-two.

Q. And what steward area do you cover? A. I did cover Steward Area 1.

Q. Approximately how many departments? A. I believe it's eight.

Q. And comprising how many employees? A. Between two hundred and three hundred employees.

Q. And who did you replace as shop steward? A. Alex Lazeroff.

Q. Now, Mr. Lee, directing your attention to on or about July 28, 1970, did you have a conversation with your foreman James Cain on that day? A. Yes, sir.

Q. Where did that conversation take place? A. Well first of all, it was just before lunch. He came over to me; I was working on the stone saw.

[868] Q. The what? A. I was working the stone saw; it cuts parts. And he says, Russ, after lunch I want to talk to you; you come over to my desk and I'll talk to you. I said, O.K. After lunch -- I can't remember the time; it must have been 1:00 o'clock or so -- he came up and says, we'll have that talk now, O.K.

Q. Was anyone else present at that time? A. No, sir.

Q. Where did you have your conversation with him after lunch?
A. I had it at his desk.

Q. And approximately how long did it last? A. Oh, fifteen to twenty minutes.

Q. Would you describe what foreman Cain said to you and what

you said to him on that occasion? A. Well, you know, we came up to the desk, and there was some guys that came by and he just told them they'd have to wait. And he turned to me and he says, Russ, since you've been elected shop steward, I've been instructed by my general foreman and supervisor to have a talk with you. And so I says, wait a minute, Jim; I just became shop steward myself; I don't even know what it consists of yet, maybe we ought to wait until it's official, you know. And he says, no, I told them that but they told me to talk to you now; it was my idea to wait until you were made official.

Q. You hadn't been designated officially as shop steward yet?

[869] A. No. All the union told me was that I had won the election; they hadn't given me an area or anything.

Q. Go ahead. A. So he says, I've been instructed to talk to you; so here we go, you know.

TRIAL EXAMINER: Would you keep your voice up, please.

THE WITNESS: I'm sorry. Yeah.

A. He says, since you now are shop steward you're going to be looked on differently by management; he said, we expect you to follow the contract one hundred percent and if you don't disciplinary action will be taken. So then, he proceeded, you know, to give me some examples.

Q. What were some of the examples he gave you, sir? A. Well like if I walked to the men's room or down to the cafeteria or some place like that, I was to follow the designated aisles in the shop.

Q. How are the aisles designated, these designated aisles in the

shop? A. There are little silver disks, aluminum, that are placed in the floor about one every two feet, I guess it is; and that's how they designate aisles.

Q. Would you describe to us how you would get to the men's room from your particular work area if you did not follow the designated aisles? A. Well I was working at the stone saw, which is right next

[870] to Department 155; so in order to get to the men's room I just would leave the stone saw, take a left, take a right and go down about forty feet and cut through 155 and I was in the men's room.

Q. Would you describe your route to the same men's room following the designated area? A. Well you can't get to there if you go through 155, because there's not a designated aisle; it goes right to the wall. So you have to get out, take a left, take a right, take another right, and then take another right, and then walk down about fifty or sixty feet, take another right and walk down about one hundred feet and you hit the men's room.

Q. Did he give you any other examples? A. Well not to be in any other department, you know just don't be there; not to absent myself from my area, you know my work area for too long or frequently a time; he said don't absent myself too frequently.

Q. Did you have any particular and peculiar reason for absenting yourself in the past from your work area? A. Yes, I have a bloody nose. So when it comes, you know I just walk down to the men's room,

hold your head up in the air, and stuff cotton in my -- you know, toilet paper or cotton in my nose; and that would stop it.

Q. Did Mr. Cain know about this history of nose bleeds? A. Yes, sir, I've been down to the medical office a couple [871] of times. I took two days off from work to go to the doctor's to try to get it fixed.

* * * * *

[872] Q. All right. Did he give you any other examples of things you could or could not do? A. No horse play for one, no talking to other employees about anything except, unless it was pertaining to my work.

Q. Well in the past, Mr. Lee, had you had many conversations with employees on non-work related subjects? A. Yes, sir -- lots. You know, the average department, you know, everybody's sports and stuff like that. You can't be in New England and not be for baseball.

Q. Did these conversations take place on company time? A. Yes, sir.

Q. Any other examples. A. Oh, well bowling; everybody there likes to bowl, and I've gotten quite interested in it. And they'll kid me about it, and I'll kid them about it. And there's many things like that.

Q. All right, sir, did Mr. Cain give you any other examples of rules that he was going to...

MR. WELLS: The witness hasn't testified that the foreman told him specifically not to talk about bowling, has he; or are you just assuming that. I object to the question.

[873] TRIAL EXAMINER: Did Mr. Cain talk to you about -- you gave bowling as just an example of the talking you did before Mr. Cain spoke to you?

THE WITNESS: Yes, sir.

Q. (By Mr. Harvey) And what was it that Mr. Cain said relative to conversations with other employees? A. No talking to my fellow employees about anything, unless it pertained to my work.

Q. All right, sir. Did he give you any other examples of things to do and not to do? A. No, sir. He just asked me if I had any questions, or he told me that if I broke any of these rules, though, that, you know, I would be dealt with more harshly than anyone else.

Q. Did he say why? A. Because I was a shop steward. He said, he didn't care really, but he said, if the general foreman or supervisor sees it, then they'd force him to take action; he said, I believe them.

MR. WELLS: I move that that be stricken as not being responsive.

TRIAL EXAMINER: No, it may stand.

Q. (By Mr. Harvey) Did you respect the statement by Mr. Cain?

A. Well he asked me if there are any questions. I said, well since you expect me to follow the contract one hundred percent,

[874] I guess you people should follow the contract one hundred percent too. If we both do it, then we won't need a steward at all. And he asked

me if I had anything else I wanted to say, and I said, no. He said, well, go back to your work. So I went back.

* * * * *

[876] Q. Did you have a conversation that day with anyone from the union relative to the statements made to you by Mr. Cain? A. Yes, sir. You see, I worked over that night. And, well I saw Kenny Couch, and he was a union steward. So I said...

MR. WELLS: I object to conversations between a union steward and another union steward. How does that pertain to the complaint?

TRIAL EXAMINER: In the way of background.

MR. HARVEY: Yes. In a moment, I think you'll see it.

TRIAL EXAMINER: The objection is overruled.

A. So I told him, I said, a funny thing happened to me today, you know, I says, Jimmy Cain come up and he really laid the law down to me. So he says, what did he say. And I said, well he told me I couldn't, you know, talk to other people, you know, no horse play. And he said, well stop right there; those are company rules; you know they're going to expect you to follow the contract one hundred percent; of course he's going to tell you that. I said, O.K. So I walked away. So then I was talking to Carl Martin.

Q. Who is Carl Martin?

[877] A. Vice president of the union. I told him the same thing. You know, he listened to the whole conversation as best as I can remember,

and he walked away and he came back around five minutes later; he says, Russ, you know, you'd better write that down; and he said, because it sounds like you were threatened. I said, that's what I thought, that he had threatened me, you know. So I wrote it down on a piece of brown paper.

* * * * *

Q. And did you have any conversation with foreman Cain that day? A. Well see, I came in early, and my lead man just got back from vacation; so I was talking to him about his vacation. And Jimmy came over to me and says, hey, I'd like to talk to you.

[878] Q. Jimmy Cain. The same Jimmy Cain that you had spoken to the day before, the foreman? A. Yes, sir.

Q. Go ahead. A. And we went under the mezzanine where all the fixtures were, and he said, you know, Russ, about that conversation yesterday, I don't want you to think it was a threat. And I said, well, Jim, I thought it was a threat; I mean that's the impression I gathered. Well it wasn't meant that way, he said, in fact, you can forget about it.

Q. Was anyone else present during this conversation? A. No. Just him and me.

Q. What did you reply? A. I said, well I still think it's a threat. And I walked back and went to work, the buzzer rang and I went to work.

Q. Did you have any further conversation relative to that talk you had with Cain that day? A. No, sir. I didn't. I just kept thinking about it.

Q. Did you ask for a steward that day? A. Yes, I did ask for a steward that day.

Q. When was that? A. Right after lunch.

* * * * *

[881] Q. All right. And about what time did the steward Lazeroff arrive? A. I'm not sure but it was after 1:00. I'd say about quarter after 1:00.

Q. What happened then? A. Well he came over and he says, what can I do for you. I says, well I have a complaint; Jimmy Cain had a talk with me and I've got it all written down here; and I want you to see it. He says, oh, yeah, Jimmy said, on the way over he said that he said something to you yesterday that he shouldn't have. That's what it was. He said, well couldn't you have waited two or three days; you'd be a steward by then; you could handle it by yourself. And then he walked away.

Q. And did you file a grievance in connection with this? A. I gave it to Mr. Lazeroff. I guess he never filed a grievance because I never signed one.

Q. Now, Mr. Lee, during the period of June and July of 1970, was it a general practice for employees in your department to regularly pass out non-work related materials on company time? A. All the time they passed it out.

Q. Pardon me. A. Not just June or July, but all the time they passed it

[882] out.

Q. It's a regular practice? A. Yeah, I guess so.

Q. What type of things do they pass out? A. Well let's see.

In the winter it's bowling scores, bowling sheets; summer, baseball schedules, golf schedules. They hang pictures up on the wall, you know, newspapers things -- funny things, you know. They pass around jokes and stuff like that. In fact, I passed around jokes myself.

Q. Of your own personal knowledge do you know whether these things are done in the presence of foreman? A. Yes, sir.

* * * * *

[884] TRIAL EXAMINER: Is the company prepared to stipulate that the employees do pass around materials not related with work.

MR. GORDON: During working time.

MR. WELLS: We're perfectly willing to stipulate that on numerable occasions in our plant employees violate the rules against doing such a thing and they are occasionally caught at it and disciplined or reprimanded.

MR. HARVEY: That certainly is not the stipulation.

TRIAL EXAMINER: You are not accepting that, I take it.

* * * * *

[895] DIRECT EXAMINATION

Q. (By Mr. Gordon) With respect to this bowling material, Mr. Lee, did that bowling material include material from bowling leagues composed of noncompany employees as well as company employees? A. Yes. In fact, I bowl in the Meadow Merchants, and

that's not a company league, and I bowl in Strikes and Spares, and that's not a company league either.

Q. And you distributed materials for those leagues on company time? A. I showed them to other employees.

Q. And discussed them? A. Yes.

* * * * *

[896] CROSS EXAMINATION

[900] Q. (By Mr. Wells) I hand you what's been marked as

[901] Respondent's 2A for identification, Mr. Lee. and ask you if this is your handwritten statement of the conversation you had with Mr. Kane on July 28th, 1970? A. Yes, this is it.

Q. Did you keep the original of this? A. No, I didn't. I turned it over to the steward.

Q. You turned it over to Mr. Lazeroff? A. Yes.

Q. Now, is it your testimony that you wrote this on July 29th, 1970? At the top it says 1:38 p.m. A. That isn't my handwriting. I didn't put that down there. I guess that's when the steward was called. I didn't write that.

Q. When did you write this? On the night of the 28th? A. Yes, sir.

Q. Is that your testimony? A. Mm-hmm.

Q. I note in this Company's Exhibit 2A, you state---

TRIAL EXAMINER: Would you refer to that as Respondent's Exhibit 2A, please?

MR. WELLS: I'll try.

Q. (By Mr. Wells) Respondent's Exhibit 2A, you quote -- you say, "This" -- referring to his conversation -- "to me it sounded like a marked warning which read, 'Be a good boy and don't cause us any trouble, and we won't cause you any.

[902] However, if you cause us any trouble, we'll make things hard on you,'" end quote. Is that what you understand him to say to you?

A. Yes, I did.

Q. And you consider that to be a threat? A. Yes, sir.

Q. Now, aren't all of the employees told to stay out of departments other than their own? A. I don't know. I can only speak for myself.

Q. You know about the rules, don't you? You're familiar with them? A. Yes, sir.

Q. Isn't there a rule that tells you not to go into other departments? A. Yes.

Q. Stay in your own department? A. Yes, I believe there is.

Q. And of course if you cut -- if you get out of the main aisles, you're in somebody else's department, aren't you? A. Yes, sir.

Q. Haven't you been warned before you became steward about being out of your own department? A. Not that I can remember.

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[923] CROSS EXAMINATION (Continued)

Q. (By Mr. Wells) Mr. Lee, the handwritten statement of yours which is Respondent's Exhibit 2 (a), did you prepare this with the idea

of submitting it as a grievance? A. Yes, sir, I did.

Q. Your testimony was that you gave it to Mr. Lazeroff? A. Yes.

Q. And he was the steward in your department at that time?

A. Yes.

Q. You were newly elected? A. Yes.

Q. Do you know why it wasn't submitted as a grievance to your company? A. No, I don't know.

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[928] Q. (By Mr. Wells) Now, Mr. Lee, this bowling league material that was being passed around the plant, you are aware, are you not, that that is a bowling league that is sponsored by the Hamilton Standard?

A. There's not just that bowling league.

Q. I am talking about the material that was passed around regularly?

A. Regularly, every Thursday that comes out? Yes.

Q. Yes, that's Hamilton Standard that sponsors, it, don't they?

A. Yes, they do.

Q. They have a recreation group that prints this material, prints the scores and passes them out to the employees involved? A. I guess so.

* * * * *

[935] ROBERT F. SULLIVAN

was called as a witness by and on behalf of the General Counsel and, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. Harvey) Would you give your name and address for the record, please? A. Robert F. Sullivan, 6 Manor Court, Enfield, Connecticut.

Q. Are you presently employed by Hamilton Standard Division, Mr. Sullivan?

[936] A. Yes, sir.

* * * * *

Q. When were you first employed by Hamilton Standard?

A. February 3rd, 1960.

* * * * *

[937] Q. During the period of your employment at United Aircraft at Hamilton Standard, have you ever held a position with the union, Mr. Sullivan? A. Yes, sir. I was the recording secretary from 1963 until August or 1969. I was a steward from 1963 to 1964. I was a committeeman from 1964 to 1965.

* * * * *

[940] Q. All right. Now, Mr. Sullivan, directing your attention to June 30th, 1970, did you have a discussion with an employee relative to the merit rating grievance? A. Yes, sir, I did.

Q. With what employee? A. Carl Carlone.

Q. What department does he work in? A. He works in Department 157.

Q. That's your department?

[941] A. Yes.

Q. Where did this discussion take place? A. Well I went out of my welding booth to get a drink of water; I was at the water fountain, and Carl approached me.

Q. About what time? A. This is approximately 2:00 o'clock in the afternoon, somewhere around there.

Q. Was it during working hours? A. Yes.

Q. All right, go ahead. A. He asked me if I had any ratings for the department, and I said, yes. And he asked me, do you have mine. I said, yes I do. And he asked me, well, could I have mine. And I told him, I said, well, I can't give them to you during working hours; I'll either give them to you in the morning before work or tomorrow at lunch. And he says, oh, O.K., that will be fine. And I said, do the other fellows over there in the electron beam want theirs. And he says, yes, I imagine so.

* * * * *

[942] Q. (By Mr. Harvey) Now did you at that time, sir, when you had spoken to Mr. Carlone, have the merit ratings in your possession?

A. I had them in my tool box.

Q. How many did you have in your tool box? A. Between forty and fifty.

Q. And where did you get them? A. I had gotten them from the union.

Q. Did you lay them in your tool box that day? A. Yes, sir.

Q. All right. Did you go to work the next day, that's

[943] July 1, 1970? A. Yes, sir, I did.

Q. And what time did you punch in on that day? A. I usually punch in around twnety-five after 7:00. And I proceeded over to my welding area, and at that time we had a third shift. And the welder on the third shift occupied my welding booth that I had on the first shift.

Q. Was he still working? A. Yes, he was just finishing up on a job. And I was watching him; he was cleaning up and then he left, he locked up and left. I went in, I opened up my tool box, I took out things to adjust my torch with and everything.

Q. To adjust your what with? A. My torch for welding. And I happened to see the merit rating sheets, and then it dawned on me that Carl Carlone asked for his the previous day. So, I was fingering through them, and I picked up Carlone's, I picked up Fiochetta's, and Conforto's. Those are the three fellows in the electron beam area.

Q. And those were the three that you started to take out? A. Yes, sir.

Q. O.K. Go on. A. I went through them, and I put them aside. And I happened to look out of my booth and there was Fiochetta. He was walking past my booth, and I called him, I said: hey.

[944] Q. What did you say? A. Hey. That's all I said. And then I asked him, are you going back over to the electron beam area; I want you to take these with you. And they were folded, and I handed them to him. And just then Foreman Dolinski came running down the aisle and

he said, there'll be none of that during working hours.

Q. Go ahead. Go ahead, Mr. Witness. A. And it caught me by surprise; I didn't even think it was 7:30 yet. This all started before 7:30, going into the welding booth and opening up my tool box and everything.

Q. Had you heard the buzzer yet? A. I didn't hear the buzzer, no, sir. I was busy doing certain things and I didn't hear it at all.

Q. How long had it taken you, Mr. Witness, to find the particular merit rating grievances that you were looking for, when you were going into your tool box? A. Well, like I said there were about forty or fifty there, and I really had to thumb through them, and I put them aside to get them over to the electron beam area.

Q. How long was it between the time you said, hey, to Mr. Fiochetta and he came up to you and the time the Foreman Dolinski approached? A. Well everything seemed to happen so fast. It seemed to me that it was a matter of maybe one or two minutes.

* * * * *

Q. (By Mr. Harvey) Now what did you say to Foreman Dolinski when he said that to you? A. Well then I looked up at the clock, and I did see that it was after 7:30.

Q. Do you recall what time it was? A. I just glanced up and I noticed it was after 7:30.

Q. O.K. A. And I just went: whoops. And that was it. I went back into my welding booth.

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[946] Q. (By Mr. Harvey) All right. Then what happened after you went back into your booth? A. Nothing. I just started putting everything together; I put my torch together; I took out things that I needed for the day's work. And I proceeded to work.

Q. Now what happened to the merit rating grievances that you had given to Fiochetta? A. He kept them.

Q. Fiochetta did? A. Yes.

Q. Did he leave the area? A. Yes, he left the area.

Q. What time? A. Just as soon as Dolinski came back and said, there will be none of that. And he went his way, and I turned around and went back to work.

Q. How long was Mr. Dolinski there talking to you after Fiochetta left? A. He was only there for a matter of seconds. He was walking by the booth. And I just said, hey. And I handed it to him and told him to take it over to the electron beam area. And that was it.

[947] Q. My question to you was how long did Dolinski stay after Fiochetta had left? A. He left right away also. The three of us just broke right up.

Q. Did anything further happen or did you have any further discussions that day? A. No, sir.

Q. Did you go to work the next day - July 2nd? A. July 2nd, I went to work, yes, sir.

Q. Punch in as usual? A. Yes, sir.

Q. Would you describe what happened that morning for us?

[947] A. I started to work at 7:30. I worked until, it was around 10:00 o'clock.

Q. Did Foreman Dolinski assign your work that morning?

A. Yes, sir - him or the leadman assigned the work.

Q. Did he mention the incident at all to you? A. Not at all, sir.

Q. O.K. Go ahead. A. It was around 10:00 o'clock, and Foreman Dolinski came to me and he said, I want you to come with me. And I said, where to. And he said, down to plant security; they want to ask you some questions. I said, well, what do I have to go down there for. He said, violation of company rules. So, I didn't say anything to him after that. We just walked down there.

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[948] Q. Did Foreman Dolinski walk down with you? A. Yes. So we went down to plant security, and there he introduced me to a fellow - Mr. Porter. And Mr. Porter said he'd like to ask me a few questions pertaining to the passing out of unauthorized literature.

* * * * *

Q. Go ahead. A. And I said we went into a little office there, and there

[949] again he said he'd like to ask me a few questions pertaining to the passing out of unauthorized literature. And I told him, I said, ghee, I just don't know what you're talking about. And he says, well, unauthorized literature is anything that's being passed out in the plant without the knowledge and consent of the company. And I told him,

I said, ghee, I still just don't know what you're talking about. And then he went into a drawer or something, and he took out the three merit ratings that I had given to Fiochetta the previous day.

Q. Now did he show you those merit rating cards, sir? A. Yes, sir.

Q. All right. Go ahead. A. Well, I said, oh, them; I didn't know they were unauthorized literature. I told him, yes, I did pass them out. And I told them, then I told him my story on how before 7:30 I started all this; and as far as I'm concerned everything did happen before 7:30, until the time Dolinski came down. I told him I didn't hear the buzzer or anything. I told him that if I had heard the buzzer, I would definitely have stopped, because I do have a strict rule myself. I've passed these out many a times, and I never passed them out during working hours.

Q. Did you tell him that? A. Yes, I did. And he was taking notes, and he went on to say well how did I get them. At that time I told him, I don't

[950] know how I got them. He asked me, did they come from the union. I told him, I don't know. He said, well, who gave them to you; did someone from the union give them to you. I told him, I don't know.

Q. Now, Mr. Sullivan, you testified that Mr. Porter was taking notes? A. Yes.

Q. In longhand across from you? A. Yes. He was sitting across the table from me.

Q. Could you see what he was writing? A. No, I didn't see what

he was writing.

Q. At the conclusion of this interview, did Mr. Porter read these notes to you that he was taking? A. Yes, after we were through all of this, he read them back to me.

Q. And did the statement relative to the fact that you had a policy not to pass them out and you didn't intend to pass them out appear on the statement that he read to you? A. No, sir. They weren't there at all. After I gave him my statement and everything and he read it back, after I gave him my story and everything and he read it back, on the first sentence was: after 7:30. And I told him, I says, I stopped him right there, I said, I didn't say this happened after 7:30; insofar as I'm concerned everything happened before 7:30.

Q. Did that statement appear in the statement that he read to [951] you? A. No, it didn't. And he told me, he says, well we've had other witnesses down here, and they established the time of 7:33. And I told him, I said, well I can't understand that whatsoever.

Q. O.K. Now getting back to your conversation with Mr. Porter, your last testimony about that conversation was that he asked you where you had gotten them? A. Yes, sir.

Q. Would you continue with the conversation? A. Well he asked me where I got them; he asked me, where did I get them. I told him I didn't know. He said, did that come from the union. I said, I didn't know. He says, did someone give them to you from the union. I told

him, I didn't know. And then he saw I was getting kind of upset. And he went off, he said, he sat back, and he says, well, you know, he says, you've been in the union for quite a while and everything; you've been recording secretary; of course you were in there the time Butler Seedman was the vice president. And he was talking to me about Butler, how he liked Butler. He thought he was a swell fellow; it was too bad, you know, that he passed away the way he did and everything. He was telling me how he and Butler got along fine and everything. So then we went back into the question again; I was probably simmering down a little. You know, I was excited; I didn't like the way

[952] I was brought down to security.

Q. Were you nervous? A. Oh, yes. Things were going through my mind as to why I was being brought down to plant security, because this was over a day after the incident. I was surprised that Dolinski never came back to me and asked me what happened.

MR. WELLS: I object to what he surmised.

TRIAL EXAMINER: Sustained. Tell us what happened, not what you were thinking.

* * * * *

Q. (By Mr. Harvey) So he returned to the questioning again, Mr. Sullivan? A. Yes, sir.

Q. Would you describe what he said and what you said?

A. And he went back into - we got through talking about

[953] Butler Seedman, and he said - I forget how it went now.

Q. Did he ask if you were still active for the union? A. Yes, he did.

Q. Would you describe that? A. Well I told him, no, I was not active with the union. Oh, this is how. Well then he said, well how come you have these things if you're not active with the union. And I just told him, I don't know; I just have them. And that's the way it went.

* * * * *

[954] Q. Did you have any discussions with him before you signed it?

A. Yes, he read the statement back to me, and, like I say, the first sentence of the paragraph there, right at the beginning, was after 7:20. And I stopped him right there. And I said I didn't say that. and then he went on to say he had other witnesses down there, and they established the time as 7:33, that all this did happen after working hours.

Well, at this time here, I knew then it was after working hours. At the time this happened, I didn't think it was 7:30 as of yet. And, as he kept reading, I kept thinking about this, why is he putting in after 7:30. It seemed like I just being

[955] hung. If this is a statement, why can't I write out a statement.

Q. Did you ask him to change it? A. I asked him to change that part, and he just kept reading.

Q. Did you discuss any other part of your statement? A. No, because he went right through it, and I was just upset about the first

part of it. He didn't change that. I was pretty upset about even listening to the rest of it. And he asked me to sign it. And then I said to him, I said, well, what happens now if I sign it. He said that, well, three things could happen. It's either you could be given a warning or you could be suspended or you could be terminated or maybe nothing would happen.

He said this isn't up to me. My job is to take your statements. This is up to somebody else. So, and then I said, well, maybe -- well, he is talking to somebody else, maybe if it's not on here, maybe he will state to somebody else, well, he had intended ---

MR. WELLS: I object to what the witness thought.

TRIAL EXAMINER: Sustained. Would you tell us what happened, not what you were thinking.

THE WITNESS: Then I went ahead and signed it.

* * * * *

[957] Q. How long had you been down in internal security with Mr. Porter? A. It had to be around an hour.

Q. Directing --- A. At the beginning of the statement, he did ask if I'm married, where I lived, how many children do I have, the ages of my children, stuff like this.

Q. And these things he wrote down too? A. Yes.

Q. Directing your attention to July 6, 1970, did you have an occasion to go to the office of the vice president with foreman Dolinsky?

[958] A. Yes. I went back to work that day and nothing else

happened all through the afternoon.

Q. Right. A. And I came into work the next day which was July 3rd, and I punched in as normal, and nothing happened that day about it. Foreman Dolinsky came to me again, but this was on a -- a merit award program that they have in the shop.

Q. Were you to receive a merit award? A. Yes, I was to receive a merit award. Yes.

Q. Who had recommended you for that award? A. Mr. Dolinsky.

Q. Did you discuss this incident with Mr. Dolinsky at all during that day, the incident of the merit rating distribution? A. No.

Q. And on the 6th of July, did you receive that award? A. Yes, I did receive that award on the 6th of July. Yes.

Q. Where was that award given? A. That was given at the office of the president of the corporation, Mr. Gamble, at that time, was the vice president, and I guess the president of the company there was on vacation or on a trip, and he took his place, and I received that, a 100 dollar war bond and certificate.

Q. Who was present during this award? A. Mr. Dolinsky was up there and Mr. Willhide from personnel office was up there.

[959] Q. Did you have any discussion with Mr. Dolinsky or Mr. Willhide relative to this incident? A. No.

Q. Directing your attention to the next day, that is July 7, 1970, did you report to work as usual that day? A. Yes, I did.

Q. Did anything unusual happen that morning? A. Well, I punched

in as normal, and I worked until around quarter to eleven. Foreman Dolinsky came to me again, and he asked me to go up to the General Foreman's office with him. And I went up, and Mr. Charlie Brown was sitting in the general foreman's office. He was acting general foreman for Russ Goluska who was on vacation at that time. And there he -- I sat down and Dolinsky sat next to me, and he said I was being suspended for a period of three days on the passing out of unauthorized literature.

And Mr. Brown didn't say anything. He just made out a slip to leave my badge and go down to headquarters and a slip to come back on July 10th, come back into to work to pick up my badge at guard headquarters.

Q. All right. A. And on the way back downstairs, I asked for the steward.

Q. Whereabouts did you ask for a steward? A. Coming out of the office, the general foreman's office, going back downstairs into the shop.

[960] Q. Who did you ask for a steward? A. I asked Mr. Dolinsky for a steward.

Q. What, if anything, did he do? A. He says, well, I'll get him later, and he says right now you're going to your tool box, put everything away, clean up your area. And he was with me all the time. And I did that, and then we walked over to the time clock. I punched out. It was approximately 11:00 o'clock. And we walked out to guard

headquarters, and there, again, I asked for a steward. And he made a telephone call to get the steward who was Alec Lazaraoff at that time.

Q. This was while you were at the guard shack? A. Yes.

* * * * *

[962] Q. Mr. Sullivan, to your knowledge and experience, from the period of June and July, 1970, did the employees regularly pass out non-work related literature during working hours without prior approval of their foreman?

* * * * *

THE WITNESS: Yes, sir, newspaper clippings, magazine clippings, there's jokes, there's a lot of things are passed out.

* * * * *

[963] Q. (By Mr. Gordon) Mr. Sullivan, how much time elapsed from the moment you called over employee, Fiocchetta, to the time foreman Dolinsky appeared? A. It was a matter of seconds, maybe about five seconds.

Q. Referring to your interrogation at internal security, did you tell investigator Porter about the incident on the preceding day when employee Carlone had come up to you to ask you to give merit ratings on company time? A. No, sir.

Q. You did not tell that to Mr. Porter? A. No, sir.

Q. Did you tell him about the incident involving an employee coming up to you the day before without mentioning any specific names?

A. Yes, sir.

[964] Q. And you had reference to the Carlone incident? A. Yes, sir.

Q. Did you tell him that you told Carlone that you could not do it on working time?

MR. WELLS: The witness has just said he didn't tell him that Carlone had asked him for it.

MR. GORDON: The witness has testified that he did not specifically mention Carlone by name but that he did tell the investigator about the incident involving Carlone, although he did not name Carlone.

TRIAL EXAMINER: I don't see that we are getting any place with this additional testimony, Mr. Gordon.

MR. GORDON: I am about to tie it up.

TRIAL EXAMINER: All right, let's tie it up then.

Q. (By Mr. Gordon) Did you -- A. I told Mr. Porter that on a number of occasions people come to me during working hours and ask for merit ratings. And I completely refuse them during working hours.

Q. Did those statements of yours end up in your internal security statement? A. Not that I know of.

Q. Did you tell Mr. Porter about the "Whoops" comment you made to foreman Dolinsky? A. Apparently I did.

Q. Did that end up in your statement?

[965] MR. WELLS: I object. The statement is in evidence.

TRIAL EXAMINER: Do you recall whether it is?

THE WITNESS: I don't -- I don't think it's in there.

Q. (By Mr. Gordon) Did you tell the investigator Porter that you never heard the buzzer that day? A. Yes, sir.

Q. And did that end up in your statement? A. No, sir.

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[966] Q. (By Mr. Gordon) Based on your personal knowledge and observations, do employees, including yourself, occasionally work through or not hear the buzzer?

MR. WELLS: Objection.

TRIAL EXAMINER: Sustained.

MR. GORDON: Mr. Examiner, if I may be heard on this, I think the testimony is important to this case. I think it tends to show that, as a matter of common practice or common occurrence, employees either don't hear or for one reason or another work through the buzzer at the start of a shift or before or after lunch or at termination of their working day.

TRIAL EXAMINER: You may ask that question of the witness.

THE WITNESS: Yes.

TRIAL EXAMINER: Yes, they sometimes do not hear it?

THE WITNESS: Yes, sir.

Q. (By Mr. Gordon) And that has happened to you? A. Yes, sir.

* * * * *

Q. (By Mr. Gordon) Do you know of any employee who has never been disciplined, based on your personal knowledge, any employee [967] who has been disciplined for not going to work for a few seconds

after the buzzer rant?

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THE WITNESS: No.

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CROSS EXAMINATION

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[968] Q. (By Mr. Wells) Mr. Sullivan, when foreman Dolinsky came to you as you were giving these rating sheets to Mr. Fiocchetta, weren't you aware, the minute you looked at the clock, that it was after 7:30? A. Yes, sir.

Q. He told you none of this during working hours, isn't that right? A. Yes, sir.

Q. At that point you looked at the clock? A. Yes, sir.

Q. And it was after 7:30? A. Yes, sir.

Q. What time was it? A. All I noticed was that it was after 7:30.

Q. Three or four minutes after? A. All I know, it was after 7:30. The time I really couldn't say. It was -- this was the main thing that I was looking at, it was after 7:30.

TRIAL EXAMINER: But it wasn't as late as 7:45 was it?

THE WITNESS: No, sir. It was just a minute or two minutes [969] after 7:30.

TRIAL EXAMINER: All right.

Q. (By Mr. Wells) Did you, at that time, tell Mr. Dolinsky that "I didn't realize it was after 7:30"? A. No, sir. All I did was "whoops"

and turned around, went to work. Mr. Fiocchetta went his way. Mr. Dolinsky went his way.

[970] Q. Well ---

TRIAL EXAMINER: But it wasn't as late as 7:45, was it?

THE WITNESS: Oh, no, sir.

TRIAL EXAMINER: I mean, it was just a matter --

THE WITNESS: A minute or two minutes after 7:30 .

Q. (By Mr. Wells) Now, did you at that time tell Mr. Dolinski that, "Gee, I didn't realize it was after 7:30? A. No, sir. All I went was, "Oops", and turned around, went to work. Mr. Fiocchetta went his way. Mr. Dolinski went his way.

Q. But in any event, at that time you knew it was after 7:30?

A. At that time I knew it was after 7:30, yes, sir.

Q. So when you were talking to Mr. Porter the following day, he was attempting to get your statements of what occurred, you didn't have any questions in your mind then that you passed these things out after 7:30, did you? A. I already knew. I knew as soon as I looked , the clock it was after 7:30.

* * * * *

[975] Q. (By Mr. Wells) I'll hand you what's in evidence, Mr. Sullivan, as General Counsel's Exhibit 64D, which is a two page statement bearing your signature, dated July 2, 1970, and ask you if this is the statement which you signed on that date after being questioned by Mr. Porter? A. Yes, sir.

* * * * *

[976] Q. (By Mr. Wells) I'll read this to you. "On Wednesday, July 1, 1970, right after 7:30 a.m., employee Fiocchetta was near my booth in Department 157. He had asked me before to get his rating sheet from union hall." Do you remember that? A. No, sir.

Q. You didn't tell Mr. Porter that at all? A. No, sir.

Q. Did you object when this appeared in your statement? A. No, sir.

[977] Q. Well, had you mentioned Fiocchetta's name at all in this? How did Mr. Porter know this?

MR. GORDON: Objection. Objection. How can the witness be---

TRIAL EXAMINER: Sustained. Sustained.

Q. (By Mr. Wells) Your testimony is now that Mr. Fiocchetta did not ask you for it, is that correct? A. That's correct.

Q. In other words, it was Mr. Carlone? A. Carlone.

Q. (By Mr. Wells) Did you tell Mr. Sullivan or Mr. Porter that you knew you weren't supposed to do this sort of thing during working hours?

* * * * *

THE WITNESS: I told Mr. Porter that I have a strict rule within myself that the union has given me instructions not to pass them out during working hours, and I have always lived by these rules ever since I became the recording

[978] secretary back in 1962.

* * * * *

Q. (By Mr. Wells) Now, you've testified that later when you were suspended, you went out to the guard shack and there Mr. Dolinski called the foreman or a steward for you, is that right?

A. While I was in the guard shack they did, yes.

Q. And that was Mr. Lazaraoff? A. Yes, sir.

* * * * *

[979] Q. Now, later Mr. Lazaraoff filed a grievance for you, did he not? A. Yes, sir, he did.

Q. And did he later discuss this grievance with Mr. Dolinski?

A. I don't know, sir. I don't know what he did. I wasn't there present until later on after the grievance was signed. Only on the day I was suspended was I with Mr. Lazaraoff.

Q. You don't know what happened to the grievance after that?

[980] A. No, sir, I don't.

Q. Well, you knew it was withdrawn at Step 2, didn't you?

A. After it was withdrawn, I found out.

Q. Now, in this discussion with Mr. Porter, how long were you with Mr. Porter? A. It had to be almost an hour, sir.

Q. During which time--- A. Almost an hour.

Q. During which time he wrote out in longhand your statement?

* * * * *

THE WITNESS: Yes, sir. He wrote it in longhand.

Q. (By Mr. Wells) And then he read it back to you? A. Yes, sir.

Q. Did you read it yourself? A. No, sir. He wrote it -- he read it to me.

[981] Q. Now, did you ask him to change anything in that statement?

A. Yes, sir.

Q. What specifically did you ask him to change? A. The first part-- the first sentence.

Q. What did you ask him to change? A. The 7:30, after the 7:30.

Q. Are you referring to the statement that says, "On Wednesday, July 1, right after 7:30 a.m. ---" A. Yes, sir.

Q. Let me finish this. "On Wednesday, July 1, 1970, right after 7:30 a.m., employee Fiocchetta was near my booth in Department 157." That's the first sentence. A. Yes, sir.

Q. You wanted him to change that? A. Yes, sir.

Q. Why? A. Because at that time my intentions were this was all before 7:30. I knew at the time it was after 7:30 when I got caught, and I tried to tell Mr. Porter this. All this started before 7:30 and I didn't hear the buzzer. If I'd heard the buzzer, I would have definitely not called Fiocchetta, definitely now.

TRIAL EXAMINER: In other words, you didn't feel that the statement as recorded by Mr. Porter gave a full story?

THE WITNESS: No, sir, it didn't.

[982] Q. (By Mr. Wells) Now, didn't Mr. Porter put in your statement, however, that, "I wish to state that I was not doing this with any intent and was only performing a goodwill gesture to Fiocchetta by giving him this"? Didn't he put that in your statement? A. If you read it from

the statement, it must be in the statement.

* * * * *

[983] REDIRECT EXAMINATION

Q. (By Mr. Harvey) To the best of your knowledge, Mr. Witness, had you ever passed out merit rating or job descriptions

[984] during working hours before this incident of July 1? A. Not during working hours.

Q. Had you ever been called down to internal security office for interrogation before July 2nd? A. Never, sir.

Q. What did it mean to you to be called down to internal security as an employee?

* * * * *

THE WITNESS: Very nervous and upset about going down to internal security.

* * * * *

MR. HARVEY: Now, after you had your discussion with Mr. Dolinski and Mr. Fiocchetta, you say--you testified on cross that Mr. Fiocchetta went his way and Mr. Dolinski went his way. Did Mr. Dolinski go in the same direction as Mr. Fiocchetta?

THE WITNESS: Mr. Dolinski took a right about face and went back to his desk. Fiocchetta took a right.

* * * * *

[986] REDIRECT EXAMINATION

Q. (By Mr. Gordon) Mr. Sullivan, at the time Foreman Dolinski

appeared and just after Mr. Fiocchetta had come over to you, what happened to the three merit ratings? A. Mr. Fiocchetta had them.

Q. And he left with them? A. He left with them.

* * * * *

[988] CARLO CARLONE

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. Harvey) Mr. Carlone, would you give your full name and address to the reporter? A. Carlo Carlone, 67 Abbey Road, Enfield, Connecticut.

Q. Are you presently employed by United Aircraft Corporation, Hamilton Standard Division? A. Yes.

* * * * *

[989] Q. Now directing your attention on or about June 30, 1970, did you have a conversation with Mr. Robert Sullivan? A. Yes, I did, at the water cooler just around from his weld booth. I asked the man, I said, I heard the union had the rating sheets for the individuals; and I wondered if he had mine, and I'd like to have it. And he said, well, yes; he says, but I'll have to give it to you either before work, lunch time, or other than company time. And he said, is that fine; and I said, O.K. And he says, do you think the boys would want theirs, meaning John Conforto and Fiocchetta. I said I think they would. And he said, O.K. And that was it.

Q. Now directing your attention to July 1, 1970, Mr. Carlone,

did you have an occasion to see your merit rating that you had requested that day? A. well actually seeing what was written or what it was pertaining to on the sheets, no. What I recall...

[990] Q. Would you describe what happened that day, please?

A. What I recall of that day was that in the morning Mr. Fiocchetta came walking into the area; I was setting up John Conforto's machine and going over the work for him, because I was the leadman at that time.

Q. And this is what area? A. In the electron beam area.

Q. Who else was in the department at the time? A. John Conforto.

Q. Go ahead. A. We were at his machine, and Mr. Fiocchetta came walking in, he called us over. Exactly what he said I don't recall at the time.

Q. In substance. A. Well - fellows look at what I've got, or I've got something here. And just about that instant, as we were walking towards him, Mr. Dolinski come tearing around the corner. And I went to put the sheets down, and Mr. Dolinski said, what have you got there and took the sheets and tore on out of the area.

Q. Did he say anything more? A. No, Mr. Dolinski didn't say anything else.

Q. Now directing your attention to July 2nd, 1970, did you have occasion to discuss this incident with Mr. Fiocchetta? A. Yes. He said he came back up from plant security, and he

[991] was nervous and he said they had caught him with the sheets, the merit rating sheets. And it was then that I had said, well, ghee, I had asked for them, not you. And a little while later - I don't remember the time, it was just before lunch - I went to Mr. Dolinski, who was the foreman at the time; I said, Ed, I was the fellow who asked for the sheets. He said, well that's not really that important; the important thing is that the guy was passing them out on company time. And he let it go at that.

Q. Did you have any further conversation with Mr. Dolinski?

A. After that, none.

Q. Now, Mr. Carlone, were you ever called down to internal security in connection with this incident? A. No, sir.

Q. Now during the period of June and July, 1970, Mr. Carlone, to your knowledge and experience as an employee in the department, do employees pass out non-work related literature during working hours without prior approval of the foreman? A. Sure they do.

Q. Could you describe some of the things you have seem and observed in the past? A. Well personally I've been involved in the bowling sheets, the Hamilton Standard bowling league sheets; in other words I have the scores and position of each team and people that bowled and so forth on it - the averages.

[992] Q. Do employees discuss the sheets during working hours?

A. Yes.

MR. HARVEY: Nothing further.

TRIAL EXAMINER: Is this done in the presence of the foreman?

THE WITNESS: Well, Mr. Dolinski at that time, when I was captain of the league, bowled for me; and I passed out a sheet to him.

MR. GORDON: And did you discuss it with him?

THE WITNESS: We were talking about it. He bowled for me in that league at the time.

TRIAL EXAMINER: You may cross examine, Mr. Wells.

CROSS EXAMINATION

Q. (By Mr. Wells) Mr. Carlone, these bowling sheets that you were talking about were Hamilton Standard Bowling League sheets?

A. Well I found this out the last time we met, that this was actually sponsored by Hamilton. I know Hamilton paid the entry fee, but I didn't realize that it was a Hamilton Standard League sheet form.

Q. Well you knew that these sheets were passed out and printed at Hamilton Standard; isn't that right? A. Yes, sir, I knew that.

* * * * *

[994] Q. (By Mr. Wells) You stated that on the morning of July 1, 1970, you were with Conforto in your section? A. Right.

Q. And Mr. Fiocchetta came? A. Walking into the area.

Q. And he had these rating sheets with him? A. Yes, sir, he did.

Q. Weren't the three of you, didn't the three of you then stand

there and were looking at them? A. No. No, sir.

Q. You never saw them? A. I saw the sheets, but to say what was on them, I couldn't testify to that.

Q. Now you testified that Mr. Dolinski came tearing around the corner. What do you mean - running? A. He was moving quite fast, in other words, like someone in pursuit; that's the way it appeared to me. Because it was almost instantaneous as Mr. Fiocchetta walked in and I moved maybe from here to there, in other words three or four feet from the machine, I look up and see Mr. Fiocchetta or Al or whatever I called him at the time, and I see Mr. Dolinski come real quick around the corner.

Q. And he walked over to you? A. Pardon.

Q. He walked over to you?

[995] A. No, he didn't walk over to me. He walked over and said to Al, what do you have there and grabbed the sheets.

* * * * *

REDIRECT EXAMINATION

Q. (By Mr. Harvey) Mr. Carlone, have there ever been occasions when you haven't heard the buzzer when you worked through it? A. Yes, sure.

* * * * *

[996] MR. HARVEY: Mr. Examiner, I have had marked for identification as General Counsel's Exhibit 70 and 70a two documents. General Counsel Exhibit 70 is a statement relative to the health of

Mr. Alexander Lazeroﬀ, signed by John F. Brennan, M.D. And General Counsel Exhibit 70a is a xerox copy of Mr. Lazeroﬀ's testimony in the arbitration case relative to his receiving Mr. Sullivan's grievance and the [997] events and circumstances surrounding it. I do feel that his testimony is relevant to the proceedings. I do not feel that the witness should be called in light of the doctor's certificate, and I would like to introduce Mr. Lazeroﬀ's testimony thereon and cross examination thereon which appears at Pages 400 through 420 of the arbitration proceeding. And I move their introduction at this time, sir.

[The documents above referred to were marked General Counsel Ex 70 & 70a for identification.]

TRIAL EXAMINER: Mr. Harvey, are you moving the admission of General Counsel's Exhibit 70 and 70a in connection with the testimony that Foreman Dolinski refused to discuss Mr. Sullivan's grievance.

MR. HARVEY: That's correct, sir, as to the background and circumstances of the refusal and the corroboration of the testimony of Mr. Sullivan.

TRIAL EXAMINER: Are there going to be other instances adduced where foremen refused to discuss a grievance or I should say allegedly refused to discuss a grievance.

MR. HARVEY: I don't believe at the Windsor Locks Plant, sir. If I may just have a moment, I can probably answer that.

TRIAL EXAMINER: Mr. Wells, does the Respondent challenge

the testimony that Mr. Dolinski refused to discuss the grievance.

MR. WELLS: Oh, yes.

[998] TRIAL EXAMINER: It does challenge it.

MR. WELLS: Certainly. I would object to this document being placed into evidence on that issue. We certainly weren't involved with that issue in the arbitration case. The arbitration case is only involved with Mr. Sullivan, that Mr. Wullivan had been discharged or, I mean suspended for two and a half days for his activities in distributing literature. Now the issue here apparently is an entirely different one: whether he refused to discuss a grievance.

MR. GORDON: Mr. Examiner, what is now in evidence as General Counsel's Exhibit 70 demonstrates...

TRIAL EXAMINER: It's not in evidence.

MR. HARVEY: It's not in evidence.

MR. GORDON: All right. It has been marked as General Counsel's Exhibit 70a. It demonstrates that on his direct examination Mr. Lazeroff was questioned as to the refusal, and on his cross examination by Mr. Wells he was further examined on the refusal to discuss. Respondent had the right to cross examination. And I think General Counsel's showing of unavailability, supported by the Brennan letter, enables and justifies and warrants the admission of this material into evidence.

TRIAL EXAMINER: I will admit it for the limited purpose

that if Mr. Lazeroff were here to testify, that he would testify that he requested his Foreman Dolinski what happened [999] and that Dolinski refused to discuss this case with him.

* * * * *

[1033] CARL D. MARTIN

was called as a witness by and on behalf of the General Counsel and, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. Harvey) Would you give your full name and address to the reporter, please? A. Carl Martin, 12 Stores Road, Enfield, Connecticut.

* * * * *

[1052] Q. And in your experience as an employee in that department, by the way how long have you worked for Hamilton Standard?

A. I've been around there eight years.

Q. In your eight years experience of working there, particularly with respect to the period June or July, 1970, have you had occasion to observe the employees in the department pass out literature, non-work related literature during working hours? A. Yes, I've had people show me pictures, family pictures and wedding pictures, jokes and cartoons.

Q. During working hours? A. During working hours.

Q. Did you have a discussion with them in connection with the literature?

[1053] A. Yes, we do.

* * * * *

[1072] WARREN A. LEE, JUNIOR

[1073] was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

* * * * *

DIRECT EXAMINATION

Q. (By Mr. Harvey) State your full name and address for the record. A. Warren A. Lee, Junior, 126 Michael Avenue, Apartment A1, East Hartford, Connecticut.

Q. You are employed by Pratt Whitney at Hamilton Standard?

A. No.

Q. I mean at Middletown? A. Yes.

Q. And how long have you been a shop steward at Middletown?

A. I've been a shop steward approximately a year and a half.

* * * * *

Q. Directing your attention to October 7, 1970, Mr. Lee, were you called out with respect to a grievance filed by Mr. Dennis Havener?

A. Yes, I was.

* * * * *

[1075] Q. Did you discuss Mr. Havener's complaint with him at that time? A. Yes. I approached Dennis, and I asked him what his problem was. And he told me that he was dissatisfied with his merit rating

that he had received from his foreman.

Q. Did you review the various areas of this complaint and his contention? A. Yes. Dennis and I talked of all five factors including accuracy, output, use of working time, application of job knowledge, and cooperation.

* * * * *

[1076] Q. Did you discuss output with him? A. Yes, I did.

Q. Would you describe that? A. Yes, Dennis showed me at this time daily records that he had kept on each job he works on. And Dennis will list, starting at 7:00 a. m. , I worked on part number 123456.

Q. Was it a notebook type diary? A. Yes. Each day he listed each part he worked on, serial number of the part, what operation number he did, what the operation consisted of, in other words what he did to the part. And he also put down the time he finished the part and also included in this was if he had to go to the Crib for a tool he wrote this in there and the time he spent doing this.

* * * * *

[1077] Q. Go ahead. A. He related to me that his output was at the point where he was putting out as much as he possibly can, and he doesn't know what he has to do to go beyond this in order to get a better rating in output. And he feels that since he is trying so hard that he didn't merit this down grading in output.

Q. Did you discuss use of working time? A. Yes, I did.

Q. Would you describe that? A. Dennis had told me that he stays at his machine, and he'll leave the machine to go to the crib to get tools or to go to the crib to get racks which they have to use to wipe the machines down and so forth. And occasionally, as everyone else does, he'll go to the men'r room, but he doesn't lag there or spend extra time there.

Q. Did he have any entries in his log book relative to these activities? A. Yes, he did.

Q. Did you see them? A. Yes, I did.

Q. What about job knowledge? Would you describe your discussion on job knowledge? A. On job knowledge, Dennis related to me that he learned a new job during this rating period, and this was where his [1078] foreman had asked him to go on this job. Dennis previously had not run this before. He was taught the job. And, at this time, he was running the job by himself.

* * * * *

Q. (By Mr. Harvey) Mr. Lee, would you continue with your testimony relative to your discussion between yourself and Mr. Havener concerning job knowledge? A. Yes. Dennis told me that since he learned this new job during this rating period that he was applying more knowledge than he had to in previous periods, to obtain new knowledge and applying this along with knowledge that he had before. And thus he should have had a better rating on application of job knowledge.

Q. Did you discuss cooperation with him? A. Yes, I did.

Q. Would you describe that discussion? A. Dennis related to me that he cooperated to the fullest extent and to the point where Dennis or was often asked to [1079] teach other people in his department a new job, jobs that he had run in the department. And Dennis was an instructor to these people, and each time his foreman approached him and asked him to teach these people, Dennis did.

And Dennis also -- I asked him at this time how his attendance record was, and he related to me his attendance record was good.

Q. After you had this discussion, did you then have a discussion with foreman Robinson? A. Yes, I did.

Q. Would you describe that discussion? A. I went back to foreman Robinson, and I told him that Dennis had requested me, because of his merit rating and that he was dissatisfied with it. And Mr. Robinson asked me what he was dissatisfied with, and I said all five factors. Then Mr. Robinson and I proceeded to discuss the factors.

Q. Would you describe your discussion with Mr. Robinson concerning accuracy? A. In accuracy, Mr. Robinson also related to me that Dennis received five Q-R's during this rating period. And I told Mr. Robinson that Dennis had also told me this, and that Dennis feels that only one was a result of his error or something that he did.

And I said to Mr. Robinson, I said, in the last rating period, Dennis had six Q-R's and said this one he only had five Q-R's, and yet you rated him lower.

[1080] And I asked him why, and he told me that labor grade 7 machine operator which Dennis Havener was should make no mistakes. So I said, are you telling me that labor grade 7 should be perfect. And he said, yes, I am.

* * * * *

Q. (By Mr. Harvey) Go ahead. A. I asked Mr. Robinson what his standards were for accuracy as far as Dennis goes, and the only answer I received from Mr. Robinson is my many years as a worker and as a foreman on the job tells me what to expect from an employee. And then Mr. Robinson made his statement to me that he should have rated Dennis lower than he did. And when I asked him why or what was the reason for this, he wouldn't give me no answer.

[1081] Q. Did you ask Mr. Robinson for any records? A. Yes, I asked to see these Q-R's, and I was not given these Q-R's.

Q. Would you describe your discussion with Mr. Robinson relative to Mr. Havener's output? A. Yes. On output, I told Mr. Robinson what Dennis had related to me, and he feels he's putting out just what he can, as much as he can. And I asked Mr. Robinson what his standard was, what Dennis had to put out to get a better rating. And I once again got the answer, in my many years as a worker and as a foreman on the job tells me what to expect from the employee.

So I brought up to Mr. Robinson that each job that is run in that department has time set on it. Someone has men, they go out, they study the job and they set a time, approximately how long this job should take to do. I asked Mr. Robinson if these times had anything to do with the standards. I said Dennis is meeting these times and Dennis is exceeding them, and Mr. Robinson told me I can't go by these times for the job, that they mean nothing.

So I said, well, then what are your standards. I said, what does Dennis have to do, what does he have to put out in order to get a better rating. I says, if he's putting out ten, then are you going to say that, if he had twelve, he would get a better rating. This is what I'm trying to get

[1082] from the foreman, so I can go back to the employee and talk to him.

* * * * *

[1083] Q. What did Mr. Robinson reply? A. I got his standard answer that his many years as a worker and as a foreman on the job tells him what to expect from an employee.

TRIAL EXAMINER: Did you ask Mr. Robinson for any records with respect to output?

THE WITNESS: With respect to output, I believe I asked for Dennis' max sheets. They're on an IBM system, and they punch these jobs out, and I was not given these either.

Q. (By Mr. Harvey) What reply did Mr. Robinson make when

you asked for them? Do you recall? A. I don't recall at the time, no.

Q. Did you discuss use of working time with Mr. Robinson?

A. Yes, I did.

Q. Would you describe that discussion? A. Yes. I had brought up to Mr. Robinson that Dennis stays at his machine, he goes to the crib for tools, for rags, et cetera, and I asked Mr. Robinson that if he walks by Dennis and Dennis is at the crib, does he know that Dennis is there getting a tool or getting a rag or is he going to think that Dennis is there goofing off or wasting his time? And he says, "I know when he's wasting his time or when he's getting tools or when he's getting rags." I also brought up that since Dennis is a machine operator, he's running a machine, that quite a bit of time is spent with the machine doing the actual

[1084] work and the operator is standing there, watching the machine to make sure it doesn't malfunction. Now, Mr. Robinson told me that Dennis leaves his machine early to wash up. Dennis told me that he'll go to wash up at approximately 3:00 o'clock, take a few minutes to wash up and he comes back and he's at his machine until 3:30, 4:00 o'clock. So he told me he's not up there for ten, fifteen minutes, not at his machine at the end of the shift.

Q. Did you tell that to Mr. Robinson? A. Yes, I did.

Q. What was Mr. Robinson's reply? A. Mr. Robinson's reply was that when he sees Dennis or when he looks, Dennis is not at his machine at 3:30.

Q. Did he have any other specific criticism of Dennis' use of working time? A. I don't recall right now.

Q. Did you discuss the amount of time that Dennis spends at the crib specifically? A. Specifically the amount of time, it's variant because each time he changes a job, and this is noted in his notebook that he keeps, when he finishes a job, he has to return tools, get other tools. So he's back and forth to his crib numerous times during the day. And I brought this out to Mr. Robinson and I also brought out that since there are many employees that he has to watch that at times when he's looking at Dennis, [1085] when he happens to see Dennis, a great number of times it could be times when he's at the crib getting tools and he's not at his machine.

Q. Did Mr. Robinson give you any specific reason why he had rated Mr. Havener as he did on his working time? A. Any specific reasons?

Q. Yes, any reason at all. A. No, not really. He kept beating around the bush with me.

Q. Did you discuss job knowledge with him? A. Yes, I did.

Q. Would you describe that discussion? A. Job knowledge, I related to Mr. Robinson that Dennis had learned a new job during his rating period, and Mr. Robinson confirmed this, saying he did. And I asked if Dennis could presently run this job by himself and he said yes, he can. And I asked Mr. Robinson, I said, "If this job were to be

run," I said, "could you put Dennis on this job, leave him there and walk away with a sense of mind that you'll know that the job will be done?" And he said, "Yes, definitely". So I said, well, "Dennis has learned more job knowledge, he's applying more job knowledge, plus what he had before, yet his rating doesn't show it". And he told me that Dennis was only applying what his job code calls for, and he told me, "You've probably read it. You have these down the union hall".

[1086] Q. A job code or job description? A. Job description. Job code write-up is what it is.

Q. I see. Did you discuss cooperation with him? A. Yes, I did.

Q. Would you describe that discussion? A. I related to Mr. Robinson what Dennis had told me as far as teaching people new jobs, and Mr. Robinson agreed with me. His good attendance record; Mr. Robinson said yes, he did. I asked if he had any ER's. He said no.

Q. ER is an Employee Report? A. An Employee Report, yes. I asked--well, how more than a man cooperate? What's wrong? What isn't he doing to cooperate? And Mr. Robinson wouldn't give me an answer.

Q. Did you ask him whether or not he had any verbal warning?

A. Yes, I did.

Q. And what was his answer to that? A. And his answer was that he had warned Dennis that the other two shifts were out doing him in output. And he told me that Dennis laughed it off and when I

brought the subject to Dennis, Dennis said that he did not laugh it off with the attitude he couldn't care what the foreman says.

Q. In your discussion with Mr. Havener, did you ask him whether or not he had received any employee reports? A. Yes, I did.

Q. And what was his answer?

[1087] A. He said no, he had not.

Q. Did you ask him whether or not he had received any verbal warnings? A. Yes, I did.

Q. And what did he say? A. He related me this warning.

Q. And what did you say to Mr. Robinson? A. I asked if I could go back and talk to Dennis again, and I related to Dennis my conversation with Mr. Robinson, and at this time it was decided that a grievance would be put into writing.

Q. And did you file a grievance? A. Yes, I did.

Q. I show you what's been marked for identification as General Counsel's Exhibit 72 and ask you whether the top of that form is the grievance that you filed in connection with Dennis Havener? A. Yes, it is.

* * * * *

[1088] Q. (By Mr. Harvey) Now, directing your attention to the 13th of October, 1970, did you receive the foreman Robinson's reply to your grievance at that time? A. Yes. I was approached by my foreman, Mr. Land, and told that I was wanted out in Department 4262 by Mr. Robinson.

Q. Did you have any further discussion with Mr. Robinson concerning the grievance at that time? A. Yes. I went to see Mr. Robinson and he told me he was ready to make a disposition on the grievance, and he told me that he had reviewed Dennis' rating and he feels that he has fairly and properly rated Dennis. And he proceeded to deny the grievance, saying the employee was properly rated, and he dated it and timed it. Then I in turn appealed the disposition, and Mr. Robinson made the comment to me, "I figured that's what would happen. You people do this all the time."

Q. And was it appealed to Step 2? A. Yes, it was.

Q. And on or about October 23rd, 1970, did you attend a Step 2 meeting in connection with Havener's grievance? A. Yes, I did.

Q. Who was present at that meeting? A. Myself, my senior steward, Michael Leslie, the company's representative was John Phelps, and a speedwriter was present. I don't know his name.

Q. Would you describe what happened at Step 2 of the [1089] grievance, please? A. At Step 2 of the grievance, the meeting was opened by Mr. Phelps reading the grievance and he asked me what facts or substantiation we had that Dennis was improperly rated.

Q. Was that a normal position for Mr. Phelps to take in your experience? A. Yes, it is.

Q. All right. Go ahead. A. Well, Michael Leslie and myself

proceeded to discuss the merit rating by each factor, and we also requested the performance standards. We requested any records that Dennis has; specifically we requested the QR's, if there were any ER's, the max sheets. And we were denied all of these.

Q. What did Mr. Phelps say? A. Mr. Phelps told us that he had made his position very clear in the past and he doesn't want to repeat himself.

Q. Did you discuss Mr. Havener's notebook with Mr. Phelps?

A. Yes, I did.

Q. Would you describe that, please? A. Yes. I presented Mr. Havener's notebooks and I showed Mr. Phelps that Dennis keeps daily records and Mr. Phelps told me that these mean nothing to him, it's just someone's notes written on pieces of paper. I then proceeded to take, I believe it's one or two days out of this, just picked at random, and I read what Dennis had done for that day, the [1090] times he had, what jobs he worked on, et cetera, and included in this was at the end of a shift, a five minute period was spent going to his foreman, Mr. Robinson, to obtain a guard pass so that he could take his union material--I believe it was his briefcase--off the company premises. And after I read this, my senior steward, Mr. Leslie, asked John if there was anything in there that showed that Dennis was not using his time effectively, using his time. And Me. Phelps told us yes, that the five minutes spent getting the pass, Dennis was not using his time effectively.

Q. Did Mr. Phelps comment on the fact that you read from the notebook? A. Yes. Well, he told us that these notes mean nothing to him.

Q How many times during the course of this meeting with Mr. Phelps, Mr. Lee, did you ask for records? A. I believe it was approximately three or four times.

A. And did you receive the same answer? A. Yes.

Q. Would you continue, please, with describing what happened at the meeting? A. Yes. We proceeded to ask for the records, standards, et cetera, and Mr. Phelps told us that we have presented no facts or substantiation that Dennis had been improperly rated, and we in turn asked him what facts he had that Dennis was [1091] properly rated, and he told us that he had facts but he would not present them because the burden of proof is on the union.

Q. Did Mr. Phelps make a disposition of the grievance at this meeting? A. Yes. He denied the grievance.

* * * * *

[1092] Q. Now, directing your attention to on or about December 2nd, [1093] 1970, Mr. Lee, were you called out in connection with seven merit rating grievances? A. Yes, I was.

Q. To what department were you called in that connection, sir?

A. I was called out to retrofit assembly area.

Q. I beg your pardon? A. The retrofit assembly area.

Q. And who were you told to see there? A. I was told to see

a Mr. Robert Zeilinski.

Q. Did you go there and see Mr. Zeilinski? A. Yes, I did.

Q. Would you describe your conversation with him? A. Yes, I will. I went out and introduced myself to Mr. Zeilinski and I noticed on his company Pratt and Whitney badge that it said he was an assistant foreman, and when I introduced myself, I asked him right away if he had a foreman. He said, "No, I do not." I said, "Do you have a general foreman?" He said, "No, I do not". So I said, "You must have someone you have to report to". He said, "I'm the only supervision in this area." So I told him that I would talk to him, but it would most definitely be under protest because under contract it says that the shop steward will discuss a misunderstanding or a possible grievance with the grievant's foreman. And I made sure that he understood that I would be talking under protest.

[1094] Q. All right. And what did you do when you told him that?

A. I then asked to talk with the people that had called me up. And I did. And it was on merit ratings, and they were dissatisfied with their merit ratings. And when I saw their merit ratings and from talking with the people, I then found out that they were rated by various other foremen.

Q. What other foremen? A. There was Mr. Frank Wraight, Mr. Armand Carrier, and Mr. Curt Chase.

Q. You found this out from the grievants who had requested you?

A. Yes. And also from--you s-e, the company supplies the union with

each merit ratings and on each merit rating are the names of the rating forms.

Q. And what did these employees want you to do? A. They wanted me to find out how they were rated and why they were rated, and what they had to do to get a better rating.

Q. What did you do after you had spoken to them? A. I went back to Mr. Zeilenski and I requested that I be able to talk to the rating foreman, and I asked him for Mr. Frank Wraight, Mr. Curt Chase and Mr. Armand Carrier. And Mr. Zeilenski told me that he didn't know how I could, he didn't know if it was possible, and he had no way of letting me talk to them. So I said, "Well, I'm going back to

[1095] my department, to my foreman, Mr. Land, and then I will request to go out and see these foremen.

Q. Request Mr. Land? A. Request through him to make an appointment to go out and see the other foremen.

Q. Did you do this? A. Yes, I did.

Q. Would you describe your conversation with Foreman Land?

A. I asked Foreman Land if I may please go see Mr. Frank Wraight. And he asked me if I had business with him, and I said yes, I did. So he asked me what it was, and I explained to him what had taken place earlier, that I wanted to talk to the foreman who rated the man. So he said, "Well, I'll see what I can do." And I waited I believe it was approximately an hour. Then Mr. Land come up to me and he

said, "No, personnel says you cannot go talk to Mr. Wraight. You have to talk to whoever they're working for now." So then I said, "Well, I'd like to go out and talk to Mr. Zeilenski." So I went out to see Mr. Zeilenski and I asked him if he had a foreman and he replied no. I asked him if he had a general foreman, and he replied no. And I told him that I would talk to him once again under protest. And I wanted to ask him how and why and what the people had to do on this merit rating. And he says, "Look," he says, "I'm the only supervision here, and since these people are working for me, you have to talk to me."

[1096] He says, "But I didn't rate the people. I don't know what standards the foremen used, so I really can't tell you anything." And Mr. Zeilenski explained to me that the people didn't discuss with him the merit rating, and I informed Mr. Zeilinski that under the present contract, the people did not have to. They had the right to discuss it with their foreman or with their shop steward, and he feels that--he told me that he felt that this was bad, that the people didn't talk to him, that they're not letting him know what the problem is, and so forth. He says, "I could have explained to them. I could have explained the merit rating system to them." I said, "Sure you can explain the merit rating as a system, but you wouldn't be able to answer any of their questions. You can't answer my questions." I said, "If this person, says, I want to know how I can do better in output, how I was rated this way in output, you wouldn't be able to

answer. You've admitted to me that you don't know what the foremen use for standards," and he also told me that foremen have different standards. Some are harder than others. Some are more lenient.

And what these foremen used, he didn't know. So I asked Mr.

Zeilenski if he could obtain the record and ratings that these specific foremen had rated these people, and he said he didn't believe that

he could. He kept telling me that since he was supervision there,

the people worked for him. I had to talk to him. I asked Mr. Zeilinski if

[1097] personnel was aware that I was talking to him under protest.

He said, "Yes, they are." I said, "Are they the ones telling you to

go on with this?" He said, "Yes, they are." He told me, he said,

"You and I are stuck in the middle of this here. You have to talk to me. We're reaching a stalemate. I really can't tell you anything."

Q. What did you do then or say, if anything? A. Well, I went back to the people and I explained to them what the situation was.

Q. What did you tell them? A. I told them that I couldn't get any--get to first base. I couldn't get any standards, any records, any answers as to how they were rated, why they were rated, or what they had to do to get a better rating. So these people in turn decided they would put in a written grievance on their merit rating.

Q. And did you file a grievance on these people's behalf?

A. Yes, I did.

Q. And what did you allege in the grievance? A. I alleged that

they were improperly rated in all five categories and for a remedy we requested that the foreman turn over all records and standards that he relied upon in rating this person and that the person be re-rated.

Q. Did you file any other aspects of it as far as the violation of the contract is concerned? A. No. I didn't actually file the grievance, but I mentioned

[1098] to Mr. Zeilenski that I felt that they were violating the contract. I believe it's Article 7, Section 1, where it states that where a disagreement arises, an earnest effort will be made by both parties to resolve this. And I told Mr. Zeilenski I didn't feel the company was trying to make an earnest effort at all with me, that I was just getting a runaround.

Q. Now, directing your attention to on or about December 14, 1970, did you receive Assistant Foreman Zeilenski's disposition?

A. Yes, I did.

Q. Would you describe that discussion with him? A. Yes, I was called out to see Mr. Zeilenski and I went to see him and I asked him if he had obtained the records and standards I had asked for from the other foremen? And he said, no, he didn't, but he talked with the other foremen and they feel that they've fairly and properly rated these employees.

Q. Did he give you the disposition? A. Yes, he did. He denied each grievance and he signed his name where it says Foreman's Signature.

Q. Did you take--strike that. Did you appeal the grievance?

A. Not at that time. I did at a later date.

Q. And did you take it to Step 2? A. Yes, I did.

Q. Would you describe--what date did you meet on Step 2?

[1099] A. I believe that was in February because of holidays and congestion of grievances at the time. I finally got in there in February.

Q. Was that with Mr. Phelps also? A. Yes, along with the speedwriter and Mr. Leslie and myself.

Q. Would you describe what Mr. Phelps said in his disposition?

A. Yes. On each person's grievance, it went the same way. He would read a grievance off the sheet and he'd ask us what facts or substantiation we had to prove that the employee was improperly rated. So we requested that a mutual agreement be met to send this grievance back to the first step and that I be allowed to talk with the specific rating foreman. And we were denied this in each case, and Mr. Phelps asked us what facts of substantiation we had, and we told him that I was unable to obtain any information from the foreman, and since I don't know what he expects, what his standards are, I can't say that this person is exceeding his standards. And Mr. Phelps laughed and he said, "Thank you for your candidness. Since you have no facts of substantiation, I'm ready to make my disposition."

Q. Did he do this in connection with all seven of the grievances?

A. No. There were six of them. One grievance was stopped at the first step.

[1100] Q. Did he do this in connection with all six of these grievances at Step 2? A. Yes.

Q. Did you request any other records of Mr. Phelps? A. We requested the foreman's standards and records. We requested max sheets, attendance records, if there were any employee's reports, and on one person, I believe it was--I can't recall his name right now--we did receive one employee's report.

Q. Did you receive any other records? A. No.

Q. What was Mr. Phelps' response to your request? A. "I have made my decision very clear in the past. I don't want to repeat myself." When he said this, we asked him if this meant he was denying our request, and he said yes.

[1101] Q. Now in your one and a half years experience as a steward representing Lodge 700, approximately how many merit rating grievances, would you say, you handled? A. I would say approximately twenty.

Q. And how many have you settled? A. None of them.

Q. In step two. A. None of them.

Q. And how many in step one? A. One was withdrawn in step one; I withdrew it.

* * * * *

CROSS EXAMINATION

Q. (By Mr. Wells) Mr. Lee, you were discussing the grievance you filed on behalf of Mr. Havener and your long discussion

[1104] with Foreman Robinson. Isn't it a fact, Mr. Lee, that Mr. Robinson had rated Mr. Havener in all five factors to the effect that his performance had been unquestionably better than the standard of competency by a marked degree and for the full rating period?

A. I didn't understand what a standard of competency is.

* * * * *

MR. GORDON: What's that exhibit you're reading from?

MR. WELLS: General Counsel Exhibit No. 22g. I'll hand it to you.

Q. I'll hand that to you and ask you if that isn't the rating sheet for Mr. Havener for the dates which appear, to wit: March 22, 1971 and October 1970? A. Right, this here is the one that we grieved on.

Q. That's the one? A. That's right.

Q. That's the way the foreman rated it, did he not? A. Yes, this is his merit rating.

Q. And above where he has checked his rating, there's a statement which states, indicates since he's checked those blocks off, that he considers his performance in each one of these factors to be just what I read to you; that is, unquestionably better than the standard of competency by a marked degree and for the full rating period?

[1105] MR. HARVEY: I object to the form of that question, Mr. Examiner. I think the exhibit can speak for itself.

TRIAL EXAMINER: The witness can say that he's looking at it

and he sees that it's marked in those boxes that Mr. Wells has referred to. And the exhibit is available for inspection.

Q. (By Mr. Wells) Now what I'm trying to understand, Mr. Lee, was it either you or Mr. Havener's contention that actually his performance was even better than that? A. Yes.

Q. In other words what you were trying to persuade the foreman was that his performance was that described under L of General Counsel's 22g; that is and I quote: "outstanding performance, exceptional accomplishment."? A. Well, sir, I've tried to have these standards of competency explained to me by Pratt & Whitney foremen and I have not been able to get an explanation. I didn't understand what they were trying to say or what they mean.

TRIAL EXAMINER: But in any event your answer is that no matter how high that rating might have been, Mr. Havener thought he was entitled to the next higher rating or a higher rating?

THE WITNESS: Correct.

* * * * *

[1107] Q. (By Mr. Wells) Now did you file the same grievance with respect to these other seven employees that you mentioned? A. The grievance part of it was the same; the remedy requested, I believe, varied.

Q. You didn't ask that all those be placed in the top position?

A. No, I don't believe I did.

Q. You mentioned that you drop one of them at the first step?

A. Yes.

Q. - What made you drop it? A. After I had talked to this particular man, Paul Gubremont, after he had talked to me and he told me he was dissatisfied with his rating and after the rating was formally put in writing and submitted, Mr. Zeilinski related to me that Mr. Gubremont had talked to him and a foreman Mr. Bill Roberts about his rating; and he had told these two supervisors that he was over rated, that they did him a favor and that they never should have given him such a good rating. So when I found this information out, I went to Mr. Gubremont and I told him, I said, look is this what happened. And he then told me that he did have this discussion. So at that time I told him, I says I'm not here - I said my time is valuable, I'm not here to be [1108] made a fool of or to waste my time on this. I says, I suggest that we withdraw this; I say, I have no other alternative but to withdraw this grievance. So this is why it was withdrawn at the first step.

Q. Now you stated that Mr. Havener had been down-rated from his previous rating, is that correct? A. Yes. I'm trying to recall. This was quite a while ago. I'm trying to recall. And I believe at the time he was.

Q. Well on what do you base your statement that he was down-rated then? A. His merit rating previous to the one that was grieved. You didn't show it to me on your form there. I think that would show you that he was down-rated.

Q. You think so. Are you sure? A. I can't say I'm sure.
I'm trying to recall back at that time.

* * * * *

[1110] Q. And that Mr. Robinson told you to go outside with him
and discuss the matter?

[1111] A. Correct.

Q. How long did you discuss it with him? A. Approximately
one hour.

Q. And after that hour you went over and had your discussion
with Mr. Robinson? A. Correct.

Q. And how long did you talk to Mr. Robinson? A. I would
say approximately fifteen or twenty minutes.

Q. During this hour that you were talking to Mr. Havener, both
you and Mr. Havener were being paid, were you not?

MR GORDON: Objection.

TRIAL EXAMINER: Sustained.

Q. (By Mr. Wells) Now isn't it a fact, Mr. Lee, that all of
these twenty grievances that you mentioned that you filed in the last
year and a half that you've been a steward, that they all read exactly
the same or substantially the same, that you asked that all these
employees be rated a T? A. Well...

MR. GORDON: Objection.

TRIAL EXAMINER: The witness may answer.

A. I have not written the majority of these asking that they be rated

a T.

Q. Well did you ask that they be rated, what did you ask that they be rated at? A. Usually what it was if a person was rated J, we asked

[1112] that they be rated R; if they were rated R, we asked that they be rated T. I don't think you'll find only a couple that were asking for T.

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EXCERPTS FROM TRANSCRIPT OF PROCEEDINGS

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THEODORE B. TOBIN

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

* * * * *

DIRECT EXAMINATION

Q. (By Mr. Harvey) Would you give your name and address to the reporter? A. Theodore B. Tobin, 63 Forrest Street, Middletown, Connecticut.

Q. Mr. Tobin, you are employed at Pratt & Whitney in Middletown plant and have worked there for approximately five years and have worked in department 4823, is that correct? A. Yes, it is.

* * * * *

Q. (By Mr. Harvey) How long have you been a shop steward?

A. I was a shop steward for approximately two years.

* * * * *

[1120] Q. What shift do you work on? A. First shift.

Q. And what steward area do you serve? A. I serviced steward area two.

Q. Can you tell me approximately how many employees are in that area? A. I believe there's close to one thousand employees in the area.

Q. And how many stewards? A. There're five stewards in the area.

Q. Mr. Tobin, on or about May 28, 1970, were you called to building 270, department 4027 in connection with a merit rating grievance filed by an employee De Raffaele? A. Yes, I was.

Q. Am I pronouncing that DeRaffaele? A. DeRaffaele.

Q. What foreman did you speak to in that connection? A. I spoke to foreman Keeney.

Q. Would you describe the incidents after you arrived at the department, please? A. I introduced myself to Mr. Keeney upon arrival in the department. He informed me that Joseph DeRaffaele wanted to speak to me concerning a merit rating, and he directed me to Mr. DeRaffaele and gave us an appropriate place to be isolated from the rest of the work area.

[1121] Q. What kind of work did Mr. DeRaffaele do? A. He's an electrician.

Q. All right, sir, go ahead. A. Mr. DeRaffaele explained to me, after long last, he had decided to take his merit rating problem up with the union in view of the fact he had never received what he has considered adequate answers from the personnel office and from his foreman. He went into the merit rating that he had received on that date and had gone over the five past ratings that he had received since at Middletown.

He informed me of the variety of work that he did and the type

of working requirements that were demanded of him. And, after going into some detail of the type of work and the demands of the job, I then went to foreman Keeney to discuss it with him.

Q. Was there any particular thing that Mr. DeRaffaele asked you to find out relative to his merit rating, any particular areas?

A. No, not any particular areas other than the fact of what it was that was necessary of him to obtain higher rating.

Q. And you spoke to foreman Keeney? A. Yes, I did.

Q. Would you describe that conversation, please. A. I informed Mr. Keeney that I was investigating the rating of the -- well, the current rating for that period. And I [1122] requested that he made available to me all records that he relied upon in making the rating, and also I asked him repetitively to explain the standards. He informed me that his standards were deemed by the job itself. And I asked him what the job requirements were, and he told me that the job requirements were written up in the job write-up itself.

Q. Is that the job description? A. The job description, yes.

Q. What else did he say, if anything? A. He told me that he had rated the man in the past, and he had rated him during this period and that he was rated fair. I asked Mr. Keeney if he kept personal notes concerning this rating period, and he informed me that he had. I asked him to produce those notes, and he stated they were his personal property and he didn't have to turn them over to me.

They were for his own personal use.

Q. Did you then speak to the employee again? A. Yes, I did. I informed him that I would like to gather more information concerning his performance during that rating period and asked him to meet me in an office that meeting.

Q. Did you meet with him? A. We did make arrangements to meet and went over the entire rating period in quite a bit of depth. Upon conclusion of this meeting, I advised Mr. DeRaffaele to file a grievance. I had the grievance typed up, and he did sign it. And I submitted

[1123] it the following day.

Q. You submitted the grievance on June 5? A. Yes.

Q. I show you what has been marked for identification, Mr. Tobin, as General Counsel's Exhibit 73 and ask you whether or not the top part of that is the grievance that you submitted? A. Yes, it is.

MR. HARVEY: I move its admission.

MR. WELLS: No objection.

TRIAL EXAMINER: General Counsel's Exhibit 73 is received.

[The document above referred to was marked General Counsel's Exhibit 73 for identification and received in evidence.]

Q. (By Mr. Harvey) When you submitted this to foreman Keeney, did you have any further discussion with him? A. Yes, I did have further discussion.

Q. Would you describe the discussion, please? A. I informed

Mr. Keeney that I had had a discussion with Mr. DeRaffaele, and that he informed me that he had saved the company considerable amount of money, not only did he perform his work on the standards required of him, but he also performed his own supervisory work, and that he had performed the job to the best of his ability. And he felt that he should have a higher rating.

Q. What do you mean he supervised himself? I don't understand [1124] that. Could you explain it? A. He didn't require consultation of his supervisor to make decisions necessary on that particular job that he worked on.

Q. Did you discuss records that this meeting? A. Yes, I did.

Q. Would you describe that discussion, please? A. I asked Mr. Keeney what type of records he kept. He informed me again that he kept personal notes concerning the employee during the rating period. I again asked him what standards he used of measure to make the evaluation. He informed me again that the standards came from the job write-up and the job itself.

Q. Was there any discussion concerning job tickets? A. Yes there were. In the course of the conversation, I found from Mr. Keeney that the electricians from this department are assigned to jobs on a job ticket basis. The time spent on the job is kept on these tickets. I asked Mr. Keeney for these job tickets, and he refused to produce them.

Q. On or about June 12, 1970, did you receive a foreman's disposition of this? A. Yes, I did.

Q. Would you describe the conversation between yourself and foreman Keeney on that day? A. I was called back to the department for his disposition. Foreman Keeney asked me what facts of substantiation I had to

[1125] warrant a re-evaluation of this man. I informed him that I felt Mr. Keeney performed the job in a manner which was far above that which was actually required of him. And , in my opinion, he would warrant a raise.

Q. Did he reply? A. Yes, he did. He informed me that he didn't believe that I was qualified to judge whether or not Mr. DeRaffaele warranted a raise.

Q. Did he say anything else? Did he explain that to you?

A. Well, I informed him that one of my past hobbies was electronics, and he then went into a conversation asking me what I had worked with and while this was my hobby I informed him of the various equipment that I had used and built while this was my hobby. And he finally gave me the disposition of the grievance, denied.

Q. After you discussed your hobby with him, did he comment on your qualifications again? A. No, I don't believe he did.

Q. Did you appeal the grievance to step two? A. Yes, I did.

Q. And on June 19, 1970, did you attend a second step grievance meeting with Mr. Phelps at the company and the speedwriter? A. Yes, I did.

* * * * *

[1127] Q. Did Mr. Phelps make a disposition in the course of that step two meeting? A. Yes, he did. I believe the disposition was, in view of few facts and little substantiation, grievance denied.

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[1130] GERALD P. NELLIS

was called as a witness by and on behalf of the General Counsel and having been first duly sworn was examined and testified as follows:

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[1131] DIRECT EXAMINATION

Q. (By Mr. Harvey) Mr. Nellis, will you give us your name and address to the reporter, please. A. Yes. Gerald P. Nellis, Round Hill Road, Middletown.

Q. Are you under subpoena, Mr. Nellis? A. Yes, I am.

Q. Are you presently employed by Pratt & Whitney or United Aircraft Corporation? A. No, I'm not.

Q. Were you laid off on April 8, 1971? A. Yes, I was.

Q. How long did you work for them before you were laid off?

A. About a year and two months.

Q. And were you a steward on the third shift? A. Yes, I was.

Q. How long were you a shop steward? A. Approximately six or seven months, eight months.

* * * * *

[1132] Q. Now directing your attention to on or about December 2nd, 1970, were you called to Department 4860 relative to a grievance?

A. Yes, I was.

* * * * *

Q. Would you describe the incident of your arrival in the department and what occurred? A. Well I approached Mr. Roudenbaugh's desk about between 1:00 and 1:30, I'm not sure of the time; and he was sitting at the desk with Mr. Terabasi, standing there. I approached him; I handed him my steward's pass; and he wrote the time down. And he said Don Zura has called for a steward; you may talk to him and then Red will take care of the grievance.

Q. Red being who? A. Frank Terabasi. And I told Mr. Roudenbaugh that Red Terabasi was an assistant foreman and that I would have to speak to him because he was the foreman in charge of the department and was the decision maker in the department.

* * * * *

[1133] Q. Mr. Roudenbaugh? A. Right. He told me that, no, Red Terabasi, Frank Terabasi was the rating assistant foreman and that he was far more qualified to handle the merit rating than himself, meaning Rick Roudenbaugh; and I told him that under the union contract any and all grievances would be taken up between the shop steward and the foreman and not the assistant foreman; there was nothing in the contract about assistant foreman. And he went to to tell me that he wasn't qualified to handle this grievance.

Q. Who's he? A. He is Rick.

Q. Roudenbaugh? A. Yes.

Q. Go ahead. A. He wasn't qualified to handle this grievance and that it would have to be handled by the assistant foreman, and

again I told him, I just, you know there was nothing in the contract to talk to an assistant foreman. I would have to talk to the one who would make the decision on the grievance - the foreman. And he said, no, you're going to have to talk to Red. And so that I could give the employee what was due him under the contract, his right, I told Mr. Roudenbaugh that I would talk to Mr. Terabasi under protest, so that I could help the employee.

[1134] Q. Did you talk to the employee - Zura? A. Yes, I did.

Q. Would you describe your conversation with Mr. Zura? A. Well I told Mr. Zura right off that Rick had refused to speak to me after I spoke to him, that I would have to speak with Red Terabasi.

* * * * *

[1135] Q. Did you discuss with Mr. Zura any particular factors and circumstances as to his performance on any particular factors on his merit rating? A. Yes, I discussed all of them. I discussed his output...

Q. Did he give you any facts that he said or he contented

[1136] supported his position? A. Well, yes. He had been the first one into that department, which was 816, which is retrofit; they receive the engines back from Boeing, having been used, and they're stripped, worked on and sent back out into the field - overhaul. And he had picked up a new job; he had been there when they set up the department; he had never been warned or whatever from Red Terabasi. He had, as he was working on the engines, he helped to set up the

department; and had done a good job at that.

* * * * *

[1139] Q. (By Mr. Harvey) Now, Mr. Witness, was--did Mr. Zura tell you--Was Mr. Zura seeking a raise or what? Exactly what did he say he wanted to have done with respect to his merit rating?

A. He wanted a higher rating. He didn't ask for a raise. He simply wanted to be rated at what he felt he should be, a better rating than he had.

Q. All right. Did you discuss the merit rating with Assistant Foreman Frank Terabasi after you spoke to Mr. Zura? A. Yes. I had no choice. I walked back up to the desk and again I said, "I would like to, you know, speak to you," and I got a definite no.

Q. To speak to who? A. Mr. Roudenbaugh.

Q. Mr. Roudenbaugh was at the desk? A. Yes. And he said, "No, you're going to speak with Red." So I went down and I went to the bullpen of the general foreman, and we use that bullpen for our conferences.

Q. Did you know Mr. Terabasi personally? A. Yes, I did. He was my supervisor for a while.

Q. All right. Go ahead. And I told Red that I was discussing this grievance with him under protest, and he said that, "Well, they just told me at 1:00 o'clock that I was handling grievances. I've never been trained for this, and I was told by Mr. Roudenbaugh at 1:00 o'clock.

Q. About what time was this that you were speaking to him?

[1140] A. I would say 1:30, "that I would be handling a merit rating grievance." And I said, "Well, you really don't know too much about handling a grievance." And he said, "Well, that's true." And we went into the grievance, and I told him--he told me that Don Zura had been very reliable in that department, had been an experienced man and had been a good asset to the work that was done in that department, that he had been there from the start and had to work on the engines while the department was being set up, and therefore the parts were scattered around. They weren't in the order that they were in cribs or bins like they were in the normal work area, and you were working at a constant disadvantage. He agreed with me that Don had done a good job while he was in there and admitted that he could have made a mistake on this merit rating.

Q. Did you discuss any records or standards with Mr. Terabasi?

A. Yes, I did. I asked Red on what did he base his merit rating, to give me an idea so that I could intelligently discuss the grievance. And he said he based it on his general knowledge of the foreman and on his observance of Don or any other employee over that period of time under which that merit rating governed. And I told him, "I don't see how a person could rate another man properly on this basis." I said, "You've got to have a job standard. You've got to have what a minimum for that job would be, and you've got to rate an employee on whether or not he does that minimum amount of work."

[1141] And he said, well, he was shoving that off. He didn't give me too much of an answer. He just shook his head. And I went further into the rating and asked him if Don Zura had in relation to accuracy QRed any parts.

Q. If he what--QRed any parts? A. That's quality review. He had damaged a part and it has to be reviewed by inspection. He said no, to his recollection, he couldn't recall any on Don. I asked him if he had any notes on Don Zura, anything he had kept as far as pro and con to his work and he said no, he didn't have anything. So I again went into Don's grievance, and I told him that his rating, his output, his accuracy, use of working time and job knowledge, they all had improved since he worked in another department, and it picked up the difference between assembly in 816 and assembly in 816 retrofit, and he agreed with me. That's when he said he really could have made a mistake on his merit rating and then I said, "Well, I would request that you rerate the man." And he said, "Well, fine, I'll rerate him." And I said, "Well, if you're going to rerate him, Red," and I've had foremen before tell me they're going to rerate a man and they rerate him lower. And I said, "Due to the work that Don has done in the department, what he has achieved, would you rerate him higher?" And he said, "Yes," he'd rerate him higher.

Q. Approximately what time--strike that. Was that the end of the meeting that you had with Mr. Terabasi?

[1142] A. No, it wasn't.

Q. There was----- A. After he thought about it for a second, he said to me, he says, he asked me if he could rerate him.

Q. What did he say? A. I believe he said, "Well, I told you I'd rerate him, but I wonder if I can," more or less doubting, a sort of question mark behind the sentence.

Q. And what did you say? A. I said that, "I believe that that's the goal in any merit rating grievance, that the foreman would rerate a man if the union or the employee could plead his case, whatever you want to call it, and convince the foreman that he had been wrong." And he said, "Well, I guess so," and I said, "Well, there's a difference between an employee and a foreman, and if the foreman feels he made a mistake in the rating, then he should have the power to rerate a man to settle a grievance."

Q. What did Terabasi say? A. He agreed with me.

Q. Was that the end of your meeting? A. Yes, it was.

Q. Did you have another conversation with Mr. Terabasi or Mr. Roudenbaugh that day or that morning? A. Yes, I did. About a half hour later, I was called out there on a grievance of Howard Jones, which was a merit rating,

[1143] and again I had to speak to Red about Jones.

Q. Roudenbaugh told you again to speak to Red? A. Right. He told me again that he wasn't qualified to handle this grievance and that he would have me speak to Red.

Q. Let me ask you this question, Mr. Nellis. During the course of the time that you have testified to that you had your discussion with

Mr. Terabasi relative to Mr. Zura's grievance, was Mr. Roudenbaugh in the area? A. Yes, he was.

Q. Now, would you continue with respect to Mr. Jones'

grievance, please? A. I talked to Mr. Jones on his grievance. And I approached the desk again and requested to speak to Rick Roudenbaugh, and I was told I would speak to Red. And this time I had no arguments left. I just talked to him under protest again. I went down to the bullpen with Red and when we got in the bullpen, before I got into anything about Howard Jones, he said, "I've got to tell you this. I told you earlier today I'd rerate Don Zura, but I'm not going to do it now." And I said to Red, I said, "Well, what do you mean? You told me a half hour ago or whatever the time was that you would rerate this man because you figured you had made a mistake, and that should have been a binding decision, and now you tell me that you will not do this." And I said, "What do you mean you won't?" And he said, "Well, I can't rerate him." And I said,

[1144] "Why?" And he says, "Well, I talked to Rick and went over my notes"-- and I interrupted him and said, "I thought you didn't have notes." He said, "Well, I had a few. I discussed it with Rick after you left and went over my notes, and Rick decided I shouldn't rerate this man, that the employee didn't deserve rerating." And I said, "Is that the only thing that did it?" And he says, "Well, they also won't let me." I said, "What do you mean?" He said, "Well, I argued Don Zura's case a slight bit," or whatever he said, "with Rick, and talked

to personnel on the phone. " And personnel told him--he told me that personnel told him that they won't let him rerate this man, that he never should have said that, and that it was a mistake to say it.

Q. What did you say, if anything, to this? A. Well, I'd known this all along myself. I had an idea that something like this would happen.

Q. Did you reply to Mr. Terabasi? A. Well, I told him I felt sorry for him, that he got in the middle of this, that he didn't know what he was doing, and any foreman in the plant wouldn't have agreed to rerate a man because he knows they're not allowed to.

Q. Did he say anything more? A. No. I believe we went into Howard Jones' grievance.

Q. Now, after you finished talking to Mr. Terabasi relative to Howard Jones' grievance, did you have a conversation---

[1145] A. Yes, with Mr. Roudenbaugh.

Q. With Mr. Roudenbaugh? A. The way I saw it, the only reason they had Red talking to me first---

TRIAL EXAMINER: Well, instead of explaining what you thought, would you give us the conversation with Mr. Roudenbaugh?

THE WITNESS: Yes. Mr. Roudenbaugh approached. Red said I'd have a chance to talk to him now and Red left the bullpen, and I talked to Rick.

Q. (By Mr. Harvey) Was anyone else present during this conversation? A. No. No, they asked that they both be present,

but I said I wanted just one. I wasn't going to talk to two people at the same time. It was hard to carry on an intelligent conversation with one guy taking notes and the other guy talking.

Q. Go ahead. A. Well, Red left and Rick wanted to get into Howard Jones' grievance immediately, and I said, "Wait a minute. I just tried to get into a grievance with Red, and he told me that Don Zura wouldn't be rerated, that you had told him he couldn't be." And Rick said, "Well, we went over some of Red's notes and we discussed Don Zura for about fifteen or twenty minutes, and he's not going to rerate him." And I said,

[1146] "What do you mean he's not going to rerate him?" I said, "It just doesn't seem logical to me that he could make a decision like that and have it overruled by you." He said, "He's not going to rerate Don Zura." And I said, "Did somebody tell him that he couldn't? Did personnel tell him on the phone that he couldn't?" And he said, "No, it was our decision to make." So I told him Red just told me that personnel said he couldn't rerate this man. They were on the phone with him. He said, "That's a mistake." And I said, "What's the story?" And he said, "Red made a mistake." I was cut off. He said we were here to discuss Howard Jones, let's discuss Howard Jones.

Q. And you discussed Howard Jones? A. Yes.

Q. On January 8, 1971, did you discuss the grievance of Don Zura at a second step meeting with Mr. Phelps? A. Yes, I did.

Q. Who else was there for the union? A. Steward Ted Rourke.

Q. Would you describe that second step meeting, please?

A. Mr. Phelps said--opens all the second steps on merit ratings.

He said, "We have the grievance on Donald Zura," read the

grievance and remedy requested, noted there was no violation of

contract and said, "Can you substantiate this grievance?" And we

had nothing to go on, as we do in any

[1147] merit rating. We had nothing but the employee's word

against the foreman, his notebook, the company records, whatever.

Q. What did you say to Mr. Phelps? A. Well, we asked for

the records. We said--I think I said we would like to have the

employee's service record, the absentee record, the foreman's

notebook, which was the deciding factor in the grievance, with

Mr. Roudenbaugh's name. And we would like to see these so we

could intellegently discuss these grievances.

Q. Did you receive a response from Mr. Phelps? A. Yes.

Q. What did he say? A. He said he wasn't going to show us

anything until we substantiated the grievance, and it was like a

rigmarole---

TRIAL EXAMINER: Well, let's not have a comment. He just refused the request?

THE WITNESS: That's it.

Q. (By Mr. Harvey) Did you ask for the run-off records?

A. Yes, we did.

Q. Any other records that you can specifically remember?

A. More specifically, the foreman's personal notebooks, which is the deciding factor in grievances.

Q. And Mr. Phelps replied what again, please? A. He said he wasn't going to show us any records. He wasn't going to plead the union's case for us by giving us the

[1148] classified company records unless we substantiated the grievance first.

[1149] Q. What did you say to that, if anything? A. I believe we said we could not substantiate the grievance without anything to go on.

Q. Was anything more said at the second step meeting that you recall? You said, are you refusing to show us these records? A. Yes. I think Ted took over at that time and said to Mr. Phelps, well, there's nothing we can do. Are you refusing to show us the company records that we need? And Mr. Phelps says, yes, I am, until you substantiate the grievance no records will be shown.

Q. Had you mentioned to Mr. Phelps, at this meeting, specifically the reference to Mr. Terabasi's notebook that Mr. Roudenbaugh had made? A. Yes, as I said before, to begin with Mr. Roudenbaugh didn't have a notebook.

Q. You said that to Mr. Phelps? A. Yes, and at the same time as I said this to Mr. Phelps, he said, well, that's right, that's the main reason we can't produce this notebook because the foreman hasn't even got one. And I says, well, I believe that was the deciding factor in

the grievance. I believe Mr. Roudenbaugh told me that he went over the notebook and reviewed Zura's case with Red and that's the reason he wouldn't rerate him. And then Mr. Phelps said this may be, maybe he does have a notebook.

[1150] And I said, you just said he didn't. And he said, well, if he does have a notebook, it's his personal notebook and it's not going to be shown to anybody including myself. And I said, well, something as important as that, the notebook that decided -- that reversed a decision from an assistant foreman by a foreman on a merit rating grievance that was the deciding factor, is too confidential for us to see? And he said, yes, you can't see the notebook.

Q. Did Mr. Phelps make a disposition at that step? A. Yes, he did. He said that the union hasn't substantiated the grievance. They have given me nothing whatsoever in the line of facts to show that Don Zura deserves rerating, therefore I am denying the grievance.

* * * * *

DENNIS J. HAVENER

was called as a witness by and on behalf of General Counsel and, having been first duly sworn, was examined and testified as follows:

THE REPORTER: Would you give me your name and address, sir.

THE WITNESS: Dennis J. Havener, Tri-Mountain Road, Durham.

DIRECT EXAMINATION

Q. (By Mr. Harvey) Mr. Havener, you've worked at United

Aircraft since June of '67 at the Middletown Plant of Pratt & Whitney?

A. That's right.

Q. And you have been a shop steward and vice president of

Lodge 700, a steward since March 17, '69; and how long have you

been vice president? A. The latter part of '69 or '70, and I am still

[1173] vice president at this time.

* * * * *

Q. Now, Mr. Havener, directing your attention to on or about

April 24, 1970, did you have a discussion with foreman John Burek

relative to a briefcase? A. Yes, I did.

* * * * *

Q. Would you describe your conversation with Foreman Burek, please.

* * * * *

[1174] A. At the end of the shift on that day, I punched out and I carried out my briefcase as I had done in the past. Upon reaching the guard shack, guard post four outside of Building 150 - the building I am in - the guard stopped me and he asked me if I had a pass for the briefcase. I told him that no I didn't; I didn't know I needed one. And he had advised me to go back in and get a pass for it. I went back into the building and into the department; my foreman Luke Robinson had left from the first shift.

Q. You testified that your foreman Luke Robinson had left for the day at the end of the first shift? A. Yes, he did.

Q. All right. Continue. A. I saw the second shift foreman, John Burek; and I asked him if he would make me out a pass to take my briefcase out. I told him that the guard told me that I needed a pass to take it outside the gate. And I asked him to check on it to find out for me what the story was, because I never needed a pass to take it out before.

Q. Yes. A. So he made out the pass; I signed it, and I left. I went down to the union hall directly from work, and it was [1175] there that I found out the trouble that Clarence Gaskins had had that morning with his briefcase.

Q. All right, Mr. Havener, would you describe this briefcase to me; what is it and physically describe it? A. Well it is a plastic briefcase. It has a plastic zipper; it's approximately that long.

Q. You have to give me dimensions?

TRIAL EXAMINER: Two feet by eighteen inches, would you say.

THE WITNESS: No, maybe.

TRIAL EXAMINER: This is about eight by twelve.

THE WITNESS: Well, it's about, a little bit - how large is this.

THE REPORTER: Eight by ten.

THE WITNESS: It's probably twelve by ten. Maybe a little larger.

Q. (By Mr. Harvey) Were there markings on it or anything?

A. I have union stickers on the outside. I believe I have my name on it with the stamp gun they have.

Q. Do you use it in your capacity as vice president and steward?

A. Yes, I do.

Q. What do you carry, sir? A. I carry employee service records for my department and several of the surrounding departments, grievance forms, the

[1176] copies of the grievance forms after the grievance has been submitted, copies of the union and company contract, some organizing material, merit ratings.

Q. Check-off cards? A. Check-off cards.

TRIAL EXAMINER: Is that a sufficient description of the contents.

MR. HARVEY: Yes, thank you.

Q. (By Mr. Harvey) How thick is it; I don't think you've mentioned the thickness of it? A. Well, empty it's flat; and with all the material in it it's maybe an inch and a half.

Q. All right, directing your attention to October 25, 1970, did you have a discussion with Foreman Robinson relative to your briefcase?

TRIAL EXAMINER: What date is that?

MR. HARVEY: The next day. I'm sorry. April 25, the day after you had the discussion. I may have been incorrect.

A. Yes, I did. I was returning from being out on a grievance and I approached Luke Robinson in one of the aisles; and in accordance with

what had happened the other day, I requested a pass to take my briefcase out. He then questioned me as to whether I needed to take the briefcase out every day, and I told him that I felt that it was necessary. And he said that he didn't feel that it was necessary, and I told him that his

[1177] feelings about what I feel is necessary aren't the same as mine; and that I did feel it was necessary to take the briefcase out every day and I needed it in the shop every day.

Q. Did you explain why? A. No, I don't think I went into an explanation in detail of everything I had in there, what I used it for.

Q. What did Mr. Robinson say or do? A. Well at that time he made me out a pass, and for at least several weeks after that I requested a pass every day in accordance with what the company had stated. And after that, one time I went up to see him about getting a pass for my briefcase; he told me that I would no longer be issued a pass for the briefcase on a daily basis.

Q. When did he tell you this, Mr. Havener? A. Well this was several weeks after this all started. The exact date of that.

Q. This was several weeks after the 25th? A. Right.

Q. April? A. Right. I had a discussion with him. He told me I would no longer be issued a pass on a daily basis, that I would only be issued a pass for the briefcase when it was necessary. I told him - Luke Robinson - that it was necessary for me to have the briefcase in the shop every day and it was necessary for me to take it out of the

shop every day; therefore,

[1178] I would need a pass for the briefcase every day. He told me that, he again stated that I would only be given a pass when it was necessary. He did give several examples such as when I was presenting a grievance to a foreman; I would be issued a pass to take the briefcase out; and when I have a second step meeting, a grievance meeting with the company on a Friday that I would also be issued a pass to take it out. And these are two examples. I don't know if there were any others. I told him that I still need a pass for the briefcase every day because it was necessary for me to have it in the shop and take it out every day.

Q. Did he give you a pass that day that you were talking to him?

A. Yes, he did. After that he did refuse to give me a pass.

Q. How long after that as best you can recall? A. I believe it was the following week that he refused to give me a pass.

Q. What did he say and what did you say to him? A. Excuse me. On Friday after I had had - I didn't have any union business that day, I didn't have any grievances - I requested a pass from him to take my briefcase out. He informed me at that time that I would only be issued one pass per week; instead of the example he gave me before, he cut it down to one pass per week. And he mentioned to me that it would

[1179] be best for me to take this one pass per week when I have the second step grievances on Friday. And again I mentioned to him that I still need to take the briefcase in and out of the shop, and I need a

pass for it. That Friday he did give me a pass for it, and the following Monday I approached him at his desk. And again I requested a pass for the briefcase, and he referred back to the discussion we had had the previous Friday, telling me that I could only be issued one pass per week. I told him I need a pass for the briefcase to take it out. And he issued me the pass that day.

I believe it was the following day or the Wednesday, I requested another pass to take the briefcase out, and he refused to give me a pass. He asked me what I needed it for; I told him to take, I needed to take it out; and he referred back to this discussion from the one pass a week. And there was nothing I could do; I couldn't get a pass.

At the end of the day I punched out, I walked out with my briefcase to the guard shack. I opened up the briefcase for inspection voluntarily, seeing as how I didn't have a pass for it. The guard at the guard post told me that a visual inspection is not good enough. He said that he was instructed to get a pass for the briefcase. I told him that my foreman refused to give me a pass. I asked the guard if he would call personnel and find out what the story was. He did call personnel, and after which he told me that I was to go back and [1180] sign in and get a pass. I requested that he call the foreman and instruct the foreman to what personnel had instructed him to do.

Q. This is what you had said to the guard? A. This is what I said to the guard.

Q. All right, sir. Go ahead. A. Which he did. And I did go back inside and I received a pass from the foreman.

Q. What foreman? A. This was Luke Robinson. He was still on the premises at this time.

Q. Did you have any conversation with him after you went back for the pass and he wrote it out for you? A. Not at that time. He merely brought out the pass, I signed it, and I walked out.

Q. Now this occurred to the best of your knowledge sometime in April or May of 1970, Mr. Witness? A. Right.

Q. And after this last incident that you described did you have any further problems or relations with Foreman Robinson relative to your briefcase in the past, sir? A. Yes, I did. Many times when I requested a pass for the briefcase, he did refuse me.

Q. Would you give me some examples of it? A. Well for example on September 2nd he approached me on a [1181] machine that I was working on and he inquired how was the machine running; we had had some trouble with it that morning. I told him it was running O.K. And at that time I requested a pass to take my briefcase out. He said, you didn't have any union business today. I said, I know that, but I need to take my briefcase out. And he said what for, and I said I need a pass to take it out. And he paused for a minute, and he said, O.K. but don't make a habit of it every day. I told him that I need a pass to take the briefcase out; I need the briefcase in and out every day and I need a pass for it

every day. And he looked at me and he said, are we going to start that all over again; and he said, I have my orders and you have your orders; I know what my orders are; I don't know what your orders are. I said to him, I asked you for a pass. Luke Robinson then replied: I said O.K. but don't make a habit of it every day because you won't get it.

On September 8th there was another occasion. This time I approached the foreman's desk and I asked him, I requested for a pass for the briefcase. He asked me what I wanted the pass for. I said to take my briefcase out. He asked me. I told him I wanted to take the briefcase out. He said again what do you want it for; he says, you don't have to tell me in detail, just what for. I told him that I have some business to take care of out of the shop and that I needed the briefcase.

[1182] He says I need more than that; are you preparing for a grievance. I told him that I had some outside business to take care of and that I needed a pass. He then asked me when was the last time I issued you a pass. I replied to him last Wednesday. And he said O.K. And he made me out the pass.

In August...

Q. Of 1970? A. Of 1970, right. There was another occasion. I approached the foreman and asked him for a pass for the briefcase. He asked me what for; I said to take the briefcase out. And he says, oh, that's right; you worked today. I looked at him and I said, I work

everyday. And he looked back at me and said I wasn't referring to that type of work.

[1183] Q. Was this Foreman Robinson? A. This is Luke Robinson, yes.

Q. Okay. A. There was an occasion in September, the exact date, I don't remember right offhand.

Q. Was it after the two occasions that you've testified to? A. I believe it was.

Q. Go ahead. A. I requested a pass from Luke Robinson. He refused me a pass. Again, as I had done in the past, I walked out at 3:30 at the end of the shift with my briefcase to the guard post.

Q. Without a pass? A. Without a pass. Again I opened it for inspection. The guard said that it was not enough. I told him that the foreman had refused me a pass again. The guard said, "What's the problem? Why won't he issue you a pass?" I told him, "I don't know what the problem is." I said, "Personnel has instructed the foreman to give us a pass." I told the guard that I don't have anything against getting a pass for it. I've got nothing to hide in it. Personnel instructs the foreman to give us a pass and then he refuses to give it to us. I then requested that he call personnel. He called personnel and he got--when he got done, he told me to go back inside and get a pass. I went back inside and at that time my foreman, Luke Robinson, was leaving the department. I called to him. He turned around, and I told him that the

[1184] guard had called personnel and had given--that personnel had given the guard instructions for me to come back inside and to get a pass. He again refused to give me a pass. I told him to get on the phone and call personnel and they'll instruct you to give me a pass. At that time he did go back to the desk, his desk, and he did make a phone call. After he had finished the phone call, he slammed the phone down. He used some words of profanity. He went to his tool box, got out his pass book, and he made me out a pass.

Q. Did he say anything to you while he was doing that? A. Let me see, "What the hell's the matter with them people up there?" I don't know exactly who he was referring to, but that's what he stated.

Q. Did these incidents with Mr. Robinson relative to your getting the pass for the briefcase continue after September? A. Yes, they did.

Q. Are they continuing today? A. Yes, they are.

Q. When was the last incident that you had with Mr. Robinson relative to this type of briefcase discussion? A. Last Friday.

Q. Would you describe that for us? A. Well, last Friday I requested a pass. I approached my foreman at his desk, Luke Robinson. I requested a pass for my briefcase. He stated to me that I did not have any business

[1185] that day. I told him, "I know I didn't. I am requesting a pass to take the briefcase out." At the time I approached him, he was busy doing some clerical work or what-not, and he said, "Well,

I don't know." He says, "I'm busy right now. I'll get back to you later." I went back to my machine. It was--the machine was close by the foreman's desk. I observed him making a phone call after which he did approach me with the pass book, and he asked me to sign for the pass. I signed it. He then stated to me that not--for me not to request for a pass every day, that I would not get a pass on a daily basis.

Q. This was last Friday, June 18th, 1971? A. This was last Friday, yes.

Q. Now, prior to the incident that you described to us earlier in your testimony of April 24th, 1970, had you had any such experiences relative to a pass? A. I had one occasion. This was during the presidency of Anthony Salustro. I believe I was on the second shift at the time and I was told I need a pass for my briefcase when I got out to the guard shack. I went back inside the department. At that time John Burick was my foreman on the second shift. I requested a pass from him. I asked him to check into it and find out what the story is. The following day, I requested a pass again from John Burick, and he told me that everything was straightened out, that I would no longer need a pass for it.

[1186] Q. Okay. And did you need a pass after that incident? A. Not after that Incident up till April 24th.

Q. Now, Mr. Havener, directing your attention to on or about June 17th, 1970, were you called out to handle a merit rating grievance

for Conrad Tyaack? A. Yes, I was.

Q. What department were you called to? A. Department 4034.

Q. And this was Foreman Bankowski? A. Right.

Q. And did you go to the department at that time? A. Yes, I did.

Q. Did you speak to Mr. Tyaack? A. Upon reaching the department, I spoke with--I saw Tony Bankowski. I gave him my pass. He said that Conrad Tyaack wants to see me, see a shop steward. He said, "I don't know what the problem is." He says, "I wish you would talk to him and find out what the problem is and let me know."

Q. All right. And then did you talk to Mr. Tyaack? A. Yes, I did.

Q. And he filled you in on the basis of his grievance? A. Right.

Q. And it was merit rating? A. It was a merit rating.

Q. Did he give you the facts and circumstances that he felt [1187] supported his grievance? A. He did give me some of his background.

Q. All right. And after you spoke to Mr. Tyaack, did you then speak to Foreman Bankowski? A. Yes, I did.

Q. Would you describe that conversation, please? A. Tony Bankowski came over to the table where Conrad and I had been discussing the merit rating. And Tony Bankowski---

* * * *

Q. (By Mr. Harvey) Now, would you describe the conversation between yourself and Foreman Bankowski, please? A. Tony Bankowski said, "Well, what's the problem?" I opened the discussion with, "It's about Conrad's merit rating." I asked Tony Bankowski what could Conrad Tyaack do to get a better rating? Tony Bankowski said, "If the employee has any problems, he should discuss it with me. I'm his foreman. I am his immediate supervision." I told Tony Bankowski that Conrad Tyaack did not have to discuss anything with a foreman first. I told him that under the contract, Article 7, Section 1, Step 1 of the grievance procedure states that an employee [1188] having such a grievance or complaint may, after notice to his immediate supervisor, take it up directly with the foreman or he may take it up with the shop steward who will then take it up with the foreman. And I showed him that article, section, and step in the contract book, and he stated to me that he did not have to discuss Conrad's merit rating with me because Conrad had not discussed it with him first. He then stated that I knew nothing about tool room work. I had told Tony Bankowski that I know how to read a blueprint. I know how to set up a machine. I know how to run a machine. And I asked him what other requirements are there, you know, to discuss the merit rating? He said, "Well, it's nothing like that. There's more to it than that." And I asked him just what was it? And he said, "I'm not going to discuss anything with you." And I then requested for a grievance form, and I requested to see Conrad Tyaack.

Q. Did you tell Conrad Tyaack what had transpired between yourself and Mr. Bankowski? A. Yes, I did. And at that time we filled out the grievance form, Conrad Tyaack signed it, and I then submitted the grievance to Anthony Bankowski.

* * * * *

[1189] Q. (By Mr. Harvey) Now, directing your attention to June 24, 1970, did you receive the foreman's disposition of the Tyaack grievance? A. Yes, I did.

Q. Did you have a discussion with Foreman Bankowski at that time? A. Yes, I did.

Q. Would you describe that for us, please? A. Well, I was called out and I went over to see--I went over to Department 4034 to see Tony Bankowski. We sat down at a table. I took out my yellow copy of the grievance, and he inserted it in the grievance form that he had, and he wrote Denied on the grievance form. He turned the grievance form around to me. I looked at it and I asked him what his basis for denying this grievance was. I took out the contract book. I put it down on the table and told him to show me where in the contract his actions for denying the grievance were justified.

[1190] He looked down at the contract. He looked back at me and he said, "I don't have to show you anything." At that time I opened up the contract book to Article 7, Section 1, Step 1, as I had done in the past. I showed it to him. I read it to him several times, and he still refused to discuss the merit rating with me on the grounds that Conrad Tyaack had not discussed the merit rating with him first.

Second, on the grounds that I knew nothing about tool room work.

* * * * *

[1191] CROSS EXAMINATION

Q. (By Mr. Wells) Now, Mr. Witness, back to this grievance problem. Mr. Robinson had given you passes on numerous occasions, isn't that correct? A. He had given me passes, yes, not all willingly.

* * * * *

[1193] Q. Do you have an employee locker? A. Yes, I do.

Q. Where you can lock material and keep material? A. Yes, I do.

Q. Did Mr. Robinson suggest to you that, "you don't have to bother me for a pass every day; can't you keep this here and only take it out when you need it?" A. He did mention that I could keep it in the locker, but I told him I need to take the briefcase out.

Q. Is it your statement that you told Mr. Robinson that he could look in your briefcase and see that there was nothing there that was of a nature you shouldn't be taking out of the plant? A. I believe I have shown Luke Robinson--at one time he requested to see what was in it, and, yes, I do remember showing it to him. He was at his desk. I requested a pass to

[1194] take it out. He said, "Well, would you open it up so I can see what's in it?" I said, "Do you want to go through personal things?" So I opened it up and I did show him what was in it. I didn't take it out piece by piece, but I opened it up for his inspection.

Q. And then he gave you a pass? A. Right.

* * * * *

[1195] Q. Now, when you came to the department on June 17th on this grievance, Tyaack's merit rating grievance, how long did you talk to Mr. Tyaack before you talked to the foreman? A. I forget. Offhand I don't really remember how much time was consumed between the time I saw him and the foreman.

Q. Did you talk to him about an hour? A. I may have.

Q. It was a long conversation, wasn't it? A. I imagine it was. Like I say, right offhand I don't remember the amount of time that I did discuss it with him before I talked to the foreman.

Q. In any event, after you discussed it with Tyaack, you went to Mr. Bankowski, and didn't you ask for an explanation of his Tyaack's rating? A. I did ask for an explanation of how he could have gotten a better rating.

Q. Didn't you also tell him that--tell the foreman that, insisted you wanted an explanation because Tyaack had told you [1196] that he could never understand the foreman's explanation during previous discussions on the same subject? A. That's correct.

Q. And didn't Mr. Tyaack tell you in fact that, "Well, if Tyaack can't understand it, and he's a toolmaker, how in the world are you going to understand it?" Isn't that in substance what he--- A. You mean how am I going to understand the explanation of the foreman? I don't understand.

Q. Didn't he say to you in effect that, "Look, if Tyaack, who's a toolmaker, can't understand the explanation I gave to the rating, how in the world are you, who know nothing about toolmaking, going to understand?"

MR. HARVEY: I object to this line of questioning, Mr. Examiner.

TRIAL EXAMINER: Denied.

MR. HARVEY: Well, I would like some clarification, then, whether or not it's Respondent's contention that this witness as a steward was disqualified from handling the grievance.

TRIAL EXAMINER: I understand that to be the purport of the question.

MR. GORDON: Pardon me. You do or do not?

TRIAL EXAMINER: I do. I understand that is the reason for the question, Mr. Wells, is that correct.

MR. WELLS: Well, I'm trying to find out what the [1197] discussion was between these two people. I think I have a right to know.

TRIAL EXAMINER: Well, what is the purpose of asking this portion of the discussion? It has some purpose, hasn't it?

MR. WELLS: Certainly

TRIAL EXAMINER: All right.

MR. HARVEY: Thank you, sir. I now understand the contention.

Q. (By Mr. Wells) Did you understand the question? A. I believe so. Well, I don't think that it was actually necessary---

Q. All I asked is what he said to you. A. Oh, the foreman.

Q. Did he in substance say that to you, that, "Look, Tyaack can't understand it, you say. How in the world am I going to make you understand it? A. He may have said something to that effect, yes.

* * * * *

THADDEUS PIOREK, JUNIOR

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

TRIAL EXAMINER: Please be seated.

DIRECT EXAMINATION

Q. (By Mr. Harvey) Would you give your name and the spelling and your address to the reporter? A. My name is Thaddeus Piorek, Junior, that's spelled capital T-H-A-D-D-E-U-S, capital P-I-O-R-E-K, Junior. I live at -- on Route 16, Colchester, Connecticut.

* * * * *

Q. (By Mr. Harvey) Mr. Piorek, you were formerly the senior steward at the Pratt & Whitney Middletown plant on the third shift?

[1204] A. That's correct.

* * * * *

[1205] Q. Mr. Piorek, directing your attention to on or about April 24, 1970, did you have occasion to go to building 10 in connection with a grievance filed by Clarence Gaskin? A. Yes, it was

approximately 4:15 in the morning. My foreman, Charles Carlis, came up to me and said that Mr. Lyman in [1206] department 4118 would like to talk with you.

Q. How far away was department 4118 from where you were working? A. Approximately a half to three-quarters of a mile, and I asked the foreman if he would call for company transportation for me, and he did. On the way over, we had to pass through two guard posts because there's one fence around the building I work in -- worked in, building 220, and the building which houses department 4118 which is building 10 there's another fence around this building that has guard posts there.

I got out of the vehicle prior to the gate. I went into the guard shack, and I handed my departmental pass which my foreman had given me at the time I left. And, when I got to the gate, the guard posted the time on the pass -- the back of the pass, and he wrote down his badge number which I believe was 1072. And he looked at me and he said, well, I see you're on official business. We've got orders from our superiors not to let any union representatives carry their briefcases between buildings and/or off company property without an interdepartmental pass.

And he says, I see you're on official union business. You can go through. I reported to Mr. Lyman.

Q. Who? A. Mr. Lyman.

Q. Is he Clarence Gaskin's foreman?

[1207] A. He was Clarence Gaskin's foreman. And when I approached him, Mr. Lyman said, well, it looks like we've got a problem here. And he says, the other day Clarence was going out of the building carrying his union briefcase, and the guard stopped him, said he had to have a pass. And Clarence, the following day, came back to me and asked me for a pass. And I told him that I had orders from personnel not to issue him a pass.

At this time, I asked Mr. Lyman if I could see Clarence. I went over to Clarence and I discussed the grievance with him. Well, at this time, it wasn't a grievance, just a discussion. I went out to find out what was wrong. Clarence told me, on April 22, that the guard had stopped him and asked him where his pass was. And Clarence at that time said, what do you mean pass? And the guard told him that he had to have a pass to take his briefcase off the company property.

Q. This is what Clarence was telling you? A. Yes, this is what Clarence was telling me.

Q. Go ahead. A. Clarence says, well, the guard told me he had to take the briefcase back into the plant. So I did. I put it in my locker. I went home. The following day, when I came into work, I asked Mr. Lyman if I had to have a pass to take my briefcase out, and Mr. Lyman says, yes, I've been told you're not supposed to be taking them out. And Clarence says, well, could you find out for me if I can take my briefcase out.

[1208] And Mr. Lyman says, well, I'll check with personnel and see what they have to say. The 24th Clarence went back into work, and Mr. Lyman -- Clarence confronted Mr. Lyman if he could receive a pass for his briefcase. At that time, Mr. Lyman had told Clarence that he had orders from personnel not to issue Clarence a pass for anything.

MR. MC GUINN: Mr. Examiner, I am not sure that he is testifying from his own personal knowledge or whether he is testifying to something that is third hand hearsay.

TRIAL EXAMINER: He is testifying as to what was told to him by Mr. Gaskin.

MR. HARVEY: Mr. Witness, all of that you have just related to us are facts that were told to you by Mr. Gaskin when you responded to that grievance call?

THE WITNESS: Yes, sir, on the 24th of April.

Q. (By Mr. Harvey) What did you do after you talked to Mr. Gaskin? A. I told Clarence I would go up to Mr. Lyman and talk with him and find out why he couldn't receive a pass. I went up to talk to Mr. Lyman, and Mr. Lyman told me that he had orders from personnel not to issue Clarence a pass for anything. And at this time, I said, Mr. Lyman -- oh, yes, I said, Mr. Lyman, myself, I think that it would be a violation of the contract and/or the National Labor Act to stop the union representative from carrying out his duties.

[1209] And I says, why isn't Clarence afforded the same as other

employees at the plant with an open bag inspection. And Mr. Lyman says, well, the guards just have to ask the employees to open their bags and check into them. He says, you know the guards looked -- the guards are looking for parts, blueprints, anything being taken out of the plant. And I says, well, Clarence wasn't taking out any blueprints. The only thing he had in his bag was union contracts, possibly E-S-R, maybe check off cards.

And I says, I asked Mr. Lyman again who had given him the order to not issue Clarence a pass, and he said personnel had. And at this time, I asked Mr. Lyman for a grievance form. I took the grievance form. I said I'd like to talk to Clarence again. I went down and sat down with Clarence and proceeded to write up the grievance. And I wrote up the grievance and I claimed three articles of the contract that I believed were violated by the refusal to issue Clarence a pass.

Q. Could you describe those? A. The first article was the purpose clause in the contract. It was article 3 which was union recognition and article 4 which was discrimination.

Q. And did you write up the grievance then? A. Yes, I hand wrote the grievance in the presence of Clarence, and Clarence signed it and then I went back and I presented it to Mr. Lyman.

[1210] Q. I show you what has been marked for identification as General Counsel's Exhibit 75 and ask you whether or not that is the grievance that you wrote up? Is that the grievance? A. Yes, this is the grievance.

MR. HARVEY: I move its admission.

MR. MC GUINN: No objection.

* * * * *

[The document above referred to was marked General Counsel's Exhibit 75 for identification and received in evidence.]

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[1211] Q. (By Mr. Harvey) Mr. Piorek, you testified that you said to Mr. Lyman that there was an open bag policy; would you describe that policy a little more thoroughly for us? A. Well every once in a while as the employees were going through the gate, the guard would ask them, if they were carrying their lunch box - this was very few and far between; I think prior to this date, I think I was only asked once within a month and a half or two months that I was at Pratt & Whitney.

Q. Did this condition happened or exist prior to this time on a regular basis, the open bag policy as you described it? A. Yes, with the exception, I noticed that none of the female employees were asked to open their pocketbooks which contained personal property.

Q. Now directing your attention to on or about 30, 1970, did you receive the foreman's disposition of the grievance? A. Yes, I did. Mr. Lyman again contacted my foreman, and I did go to department 4118 and received his disposition - grievance being denied.

Q. Did you have any further discussion relative to this? A. No, not that I can recall.

Q. Calling your attention to May 8, 1970, did you attend a second step grievance with Mr. Phelps in connection with Mr. Gaskin's grievance?

[1212] A. Yes, I did at that time I was the senior steward for the third

shift at Pratt & Whitney, and my shop steward at that time was Robert Bovee.

Q. Would you describe what occurred at that second step grievance;

what you said and what you heard said? A. Well when we came into to discuss this grievance, Mr. Phelps opened the session with reading the statement of grievance, the remedy requested, and the articles that were claimed, the violations, the purpose, cause in Article IV. And then he said to myself, he says, Ted, you know that the company and the union does not have a written agreement for union stewards to have an open bag inspection. And I says, no, I was not aware that there was no written agreement, that in the past we hadn't needed one; we would just go out with our union material. And Mr. Phelps stressed again that there was no written agreement.

Q. Did you have any discussion with him about any agreement in the course of this grievance session? A. Well I asked Mr. Phelps why the union steward were not afforded the same courtesy as the other employees with the open bag inspection.

Q. Yes. A. And he says, well you know there is no written agreement, and he says, if there's nothing further, he says, I'm ready to give you my disposition. I said, Mr. Phelps, I says, you [1213] haven't tried to talk on the different violations. We are prepared to talk on the different claims violated. And he says, my disposition is grievance denied. And after this meeting, in fact, as I went back to my department in Building 220, when I went back to my foreman, who was Charlie Collis, I asked Charlie if I could have a pass to get my union

material out, seeing that Clarence had had to have a pass, I figured that I would have to have a pass.

Q. Yes. A. So I asked my foreman to issue me a pass to take out my union material, and he says, I am not, I do not have a pass book and that the foremen in the inspection department are not authorized the pass books, that I would have to see the general foreman?

Q. Who was that? A. That was Howard Richardson. I said, well, could you call him up so that I could see him and get a pass; and he said, yes. So just prior to the end of the shift at 7:00 o'clock in the morning, I went up to Mr. Richardson's office and I says I would like to have a pass to take out my union material; I was on a grievance today. And he wrote out the pass. And as I was going out the gate, I presented this here pass to the guard and nothing was said.

Q. Now directing your attention back to the second step grievance meeting with Mr. Phelps, Mr. Piorek, did you have [1214] any discussion with Mr. Phelps relative to the orders from personnel in connection with the Gaskin grievance? A. Yes, I had asked Mr. Phelps why Mr. Lyman had told me or I stated that Mr. Lyman had told me that he had orders from personnel not to issue Clarence a pass for anything. And Mr. Phelps said, Mr. Lyman never made that statement to you. And I said that I was there, Mr. Phelps, and this is what he told me.

Q. Did Phelps comment on that? A. Not that I can recall.

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[1244]

WILLIAM C. GASKIN

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. Harvey) Will you give the reporter your full

[1245] name and address to the reporter? A. William C. Gaskin,
24 Roosevelt Drive, Middletown.

Q. Mr. Gaskin, you came to work at Pratt & Whitney, United
Aircraft on September 26th, 1966? A. That's right.

Q. And you were in Department 4188 on the second shift? A. Yeah,
at that time.

Q. When you came to work? A. No, I was on the third shift.

Q. And you were and are a shop steward on the third shift? A. Yeah.

Q. How long have you been a shop steward, Mr. Gaskin? A. Well
the first time I become shop steward in March of 1969; I stayed a shop
steward up until August of '69. Then they put me back on in December of
1969; I stayed a shop steward until April the 2nd, '71.

* * * * *

Q. I direct your attention to April, 1970, Mr. Gaskin; did you have
a conversation with your foreman Mr. Lyman relative to speaking to
other people in other departments? A. Yes, Roosevelt came up to my
machine.

Q. Roosevelt?

[1246] A. Roosevelt Kane. He was an employee in my department,
No. 4151. He came to my machine and he asked me for a cigarette.

* * * * *

A. And he was looking at the machine, see how it run. And well before he got a chance to leave, my foreman - Howard Lyman - he came up and told him to get back into his area.

Q. Who - Roosevelt Kane? A. Roosevelt Kane.

Q. Yes.

* * * * *

[1247] Q. Did Mr. Lyman say anything to you after Roosevelt left?

A. Yes, he came back.

Q. What did he say? A. He came back to me and he said, well, you're a shop steward, you know the company rules that you can't talk to an employee during working hours. I asked him, did that rule apply for shop stewards only; he said, no, it would apply for everyone. I said, no, it didn't, you just men over there in that area, where them people been sitting the last half hour...

Q. You just left over from that area. A. Yeah, he just left them over there. And he just left an area the people were just sitting about for a half an hour, sitting drinking coffee; and he just left them over there. And he came over to my machine and that's when he told Roosevelt Kane to get back in his area where he worked at.

Q. And you told this to Mr. Lyman? A. Yeah.

Q. What did he say to you? A. He said that rule would apply not only to shop stewards, it applies to everyone. I said, no it doesn't, because you just left them over there; the people have been sitting out there

[1248] for half a hour drinking coke; it doesn't apply to everyone. He

said, well, you should know the company rules; the shop stewards can't talk to an employee during working hours.

Q. Now directing your attention to a few days later in April, 1970, did you have a further discussion with Mr. Lyman relative to a conversation you were having with an employee? A. Yeah, with Carolyn Hill. She came up to my machine; she asked for change for a dollar.

Q. What department? A. She worked in the same department, but she works over on the draw bench.

Q. The same department you work in? A. Yes.

Q. And she works in the same department that you do? A. The same department.

Q. What did Miss Hill say to you? A. He come and ask me for change for a dollar; I told her that I didn't have the change, I didn't have no change. So before she got a chance to leave Lyman came up, and he told her to get back over where she worked at. And he left and I saw her during the lunch time and I asked her what had Lyman said to her. She said, well he told her that she couldn't talk to a shop steward during working hours.

Q. Did Lyman say anything to you after he sent her back?

[1249] A. Yeah, he came back to me, and he said I just told you a couple of days ago that you couldn't talk, an employee couldn't talk to a shop steward during working hours. I asked him, did that rule apply for shop stewards only; he said, it applied for everybody. I said other people talk and you don't bother them. And he said, well, you should know the

company rule; that's the rule, and that's what you have to abide by.

* * * * *

[1252] Q. Directing your attention to October, 1970, did you have another conversation with Mr. Lyman relative to talking to other employees?

A. Yes.

Q. Where did this occur? A. Well I went down to the camber machine, and Virginia Moody, she was running the machine.

Q. Virginia Moody? A. Moody.

Q. Do you spell that M-O-O-D-Y? A. Right.

Q. And what did, in what department was she working? A. 4134.

Q. Who's the foreman of that department? A. Charlie Savarino.

Q. All right. Would you describe what happened with Virginia Moody.

A. Yes, she told to get her a packet of gum, was I going to the candy machine. I told her, yes - would you get me a pack of gum; I said O.K., what kind do you want; she said, any kind

[1253] you might bring me. So I went to the candy machine and got the gum, and I brought the gum back to her; and she was telling me about her boyfriend got in a wreck.

Q. Got in a wreck. A. He had wrecked his car. And I asked her, did he get hurt; and she said, no, just tore his car to pieces.

Q. How long did you stay there? A. About a minute.

Q. Talking about what? A. Well she was telling me about her boyfriend got in a car accident.

Q. O.K. Go ahead. A. And Charlie Savarino, he passed right by

both of us; he didn't stop, he didn't say anything to either of us.

Q. He passed by while you were talking to her? A. Yes.

Q. Go ahead. A. And so I give her the gum and I left, and I went back to my machine, my department. And about an hour later my foreman - Howard Lyman - came up to my machine; he says, well, Charlie Savarino has just told me that you were over in his department talking with Virginia Moody. I said, yeah, I said, I was going to the candy machine; she told me to get a packet of gum and she told me her boyfriend got in a wreck. He said, he didn't care; it didn't matter what it was; I done told you [1254] over and over and over that employees can't talk to stewards during working hours. And he said, another thing, he said, that the foreman over in that department didn't know what you were talking about; maybe he could think you were trying to sign them up into the union. I said, why should I try to sign someone up in the union when she's already a member of the union. He said, well he didn't know what you were talking about. I said, well why didn't he ask me, I would have told him. And he said, well I don't mind you talking to somebody in your department, because I know in my department who is in the union and who ain't in the union. I said, well why don't Charlie Savarino know in his department who is in the union and who ain't.

Q. And what did he say to that? A. He said, well, you should know the company rule - that I done told you over and over and over - that you can't talk to an employee during working hours.

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[1256] Q. Now directing your attention to the next day, April 3rd, 1970, did you have a conversation relative to merit rating distribution? A. Yes.

Q. Describe it, please. A. I had a bunch of merit ratings that the people in 4151, the people had told me to get these too. After I finished eating on my lunch time I went over there and handed their merit ratings out to them. So while I was handing them out, my foreman Howard Lyman and general foreman Walt Foster...

Q. Your foreman and your general foreman - who? A. Walter Foster.

Q. Walt Foster -- F-O-S-T-E-R. A. That's right.

[1257] Q. Go ahead. A. And he said, you are still giving our merit ratings. I told him, yeah, the people was asking for them; it's on my own time. They asked me to pick them up from the union for them, and I picked them up and bring them to them; that's part of my job as steward.

Q. Were there any employees around when the foreman and the general foreman were speaking to you? A. Yes, Buddy Bernard and I can't think of the other lady's name.

Q. All right. A. So I saw her the next day at lunch time; she asked me why did Lyman bother me; I said - she said, I see you give out the union flyer at the front gate and you work on your own time; I don't know why he bothers you and you're giving out merit ratings on your own time and your own lunch time. I said, I don't know.

Q. Did you reply to the questions by Mr. Lyman and the general foreman? A. Yes, they told me that I couldn't solicit for the union or give out merit ratings in the plant, that it was an agreement between the

company and union that the only place you could give them out in the plant was in the cafeteria and in the locker room.

Q. What did you say?

[1258] A. And he said, you'd better go back to the union; I know you should know the rules because you go to the union meetings; you should go to the union and learn about the company rules. I said, well I didn't know; the only thing I understood was that do the union work on your own time, on your lunch time, before work or after work. He said, well that's agreed on between company and union.

Q. Did you have any further discussion relative to this conversation with Mr. Lyman? A. Yes, on April the 6th.

Q. On April the 6th. A. He came up to me, to my machine, and he said, Willy, he said, you're right about giving out the merit ratings on your own time, and you can give them out to the people you are working with. I said, well you said that I couldn't give them out this week unless it was in the cafeteria or locker room. He said, well, they changed the rule around so fast and I made a mistake; so you was right; I check with personnel; I could give them out on my own time on my lunch period.

Q. Now, Mr. Gaskin, directing your attention to on or around April 24, 1970, did you have a discussion with Foreman Lyman relative to your briefcase? A. Yes, I did.

Q. About what time did this take place? A. Around 4:30.

[1259] Q. Would you describe that incident and what you said and what

he said? A. Yes, sir. On April the 23rd I had my briefcase; I went out that morning at 7:00 o'clock. And when I got to the guard shack, the guard stopped me. He said, do you have a pass to take this briefcase out; I said, no, so far as I knew you didn't have to have a pass; you just opened it up; it was an agreement between the employer and...

THE REPORTER: Would you repeat that, please.

Q. Anthony Salustro. A. Tony. Tony Salustro, the union president and who? A. Personnel director.

Q. Colby. A. Art Colby. And I said, as far as I understand it, you just open your briefcase and the guard looks in it and you go ahead. And he said, well I've been instructed by personnel not to let nobody to come through here without a pass with a union briefcase.

Q. The guard said that? A. He said, I don't see no reason why you can't get a pass.

Q. The guard said it? A. The guard said that. He said, well go back into the plant and get a pass. So I went back in the plant, but I couldn't find Lyman; he had left. So I come back out; he still wouldn't let me out of the plant with the briefcase. So I [1260] finally, I carried the briefcase into the plant and put it in my locker.

Q. You didn't take it out on the 23rd? A. No.

Q. Then on the 24th did you have a discussion with Foreman Lyman about a pass? A. Yeah. On the 23rd, which they had a meeting that morning for the third shift; I stopped at the union hall and I talked to Ted,

he was a shop steward at that time. I was talking to him and discussing the business. And he said, well, there's supposed to be an agreement between the company and union that you could open up your briefcase and bring it out. I said, well I couldn't get my briefcase out because the guard made me carry it back in.

And on the 24th I had another discussion with Lyman.

Q. Would you describe that now? A. Yes, I went up to Lyman. I told him I'd like to have a pass to take out my briefcase, out of the plant. He said, well I got orders from personnel not to issue a pass to take out the union briefcase. I said, well, that's part of my job as a steward that I have to bring in material, merit ratings, contract book, constitution, duty check off book, duty check off card, employee service records and all of that. I said that's part of my job. He said, well, I got my order from personnel not to issue a pass unless it is necessary.

[1261] Q. Unless it was necessary? A. Necessary.

Q. O.K. A. He said, I asked him what would be necessary. He said just if you go out on a grievance, a second step meeting at 2:00 o'clock in the afternoon. He said, that's my order that I can't issue a pass unless it's necessary that you go out on a grievance or on a second step meeting.

TRIAL EXAMINER: What did you say to that, if anything?

THE WITNESS: I said, well if that's your orders that you got from personnel I want the services of a shop steward.

Q. (By Mr. Harvey) And did you receive the services of a shop steward? A. Yes. He said, well, go back to work and I'll get you a

steward. Around about a half hour the steward Ted Pioret. Ted came over, my foreman Lyman came over and said, well I understand you wanted to talk to a steward; and I came over and talked with Ted and told him what I have said. He said, O.K., you can go back to your machine. He said, I'll go up and find out why he won't issue you a pass. And then later on the foreman came back and said, well the steward wants to see you again; so I came over again and Ted had a grievance form, he had written out the grievance form. He said you read it before you sign it; so I read it and I signed it.

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[1285] TRIAL EXAMINER: I hope I can ask an intelligent question.

Does the company claim that the foremen do supply to the union on demand an explanation of how they arrived at the merit rating for the various factors other than in general

[1286] terms? I mean, is this really an issue in the case? Are you putting the foreman to the burden of his proof in this respect?

MR. MC GUINN: No, we're not putting the foreman to the burden of his proof. We are asking if the employee has any specific problem, we'll be happy to discuss it with him. But when we get into the area of standards, you are presuming a fanthorn cause. You will never find them. These are subjective standards that each foreman has. They vary from foreman to foreman and they are not exact in the foreman's own mind. He does it by a process of observation over many years, and he does not have a 30 units per hour standard in his mind. So if you're going to let the General Counsel go into this, we're going down a road

that has no end.

TRIAL EXAMINER: You are claiming, in other words, that when a foreman gives a merit rating on these various factors, that he is just doing it on a general impression, that he is not trying to use any scientific method of arriving at his results, any objective method?

* * * * *

[1297] Q. Directing your attention to on or about October 26, 1970, were you called out to department 4134 relative to a grievance with Mrs. Edith Barnes? A. Yeah, but it was the 19th when it was filed. That was the disposition on the 26th.

* * * * *

[1299] Q. Would you briefly describe your discussion with Mrs. Barnes, particularly with respect to what her complaint was and what she asked you to determine? A. Well she had a complaint about her merit rating, why she was rated unsatisfaction; she was over there training a new employee. And she told me see could I find out what were the reasons why he rated her unsatisfaction, because he knows something about the resistor welding, because she had been training a new girl. I said, well - she couldn't understand why she was rated unsatisfaction. I said, well I'll go in there and see if I can find out, maybe we can settle it here if I can find out what the reason, why he got you rated like this here. I told her I couldn't understand it either, if you were training a new girl.

Q. Did you talk to foreman Savarino? A. Yeah, I went back to see Savarino and talked to him and asked him why he had her rated unsatisfaction. He said, well he rated her as he sees it from his

experience as a foreman, and he had his standards up in his head.

* * * * *

[1300] A. I asked him for the records, any E.R.'s or Q.R.'s or what she had signed, had she messed up in her work in accurate; and he said, no. I said, well have you got any records, because you got her rated unsatisfaction. And I asked him for the records, and he said, well he didn't have no records available, the records were down in personnel.

Q. He said the records were down in personnel? A. Down in personnel. They're not available. I said, well you is the foreman, you should keep records.

Q. Did you ask the foreman how he rated a person with respect to output?

[1301] A. Yes.

Q. What did he answer? A. He says, well he rates them from his experience as a foreman, as he sees them, and he's got the standard up in his head, and he rates them from what they clock out on the friden runoff each night; and he rates them on what he clocks out on. I said, well have you got that friden runoff. He said, I just told you that the records are down in personnel, that I don't keep the records here. And he said, well he knows how much work you have to do, to put out, because he's got a sheet in the back of the crib; you can look up there on the operation and see how many pieces they have to put out an hour.

Q. That's what he said to you? A. Yes.

Q. What did you say to that? A. I said, well how would I know,

you're not going to show me the friden runoff, how do I know how much work she put out in this six month period, because after she clocks on the friden runoff, you don't see it any more. He said, well you know what to do; I said, how are we going to settle this grievance if I can't see the friden runoff and see how much work she put out in that six month period.

Q. Now let me interrupt you, Mr. Witness. Is there such a posting on the back of the crib; would you describe what that [1302] is? A. They got a sheet in the departments on the operations and the pieces, how many they expect you to put out.

Q. Where is that posted? A. It's on the back of the crib.

Q. Who posted it? A. The company, I guess.

Q. Did you discuss with Foreman Savarino his rating of Mrs. Barnes on the use of working time? A. Yes.

Q. Would you answer that? A. I asked him how he rates a person on efficient use of working time, and I asked him how he rates them on efficient use of working time. He said, well he rates them as he sees them, from his experience as a foreman; he's got his standards up in his head. I said, well if you've got this in writing, I want to see the record. I asked him how she worked; he said, well she worked normal. I said, how you rates them. He said, well he rates them on how long they stay at their machine, you know, how they do their work, how they stay at their machine; he said, she spends a lot of time at the water fountain and in the bathroom talking to other people.

Q. I said, well you've got that in writing how much time she spent in the bathroom, how much time she spent talking to [1303] other people, how much time she spent at the water fountain talking to other people. And I said, do you have any writing. And he said, I just told you, I don't have no records available; her records are down in personnel. I said, well I want to see it, each time you see her go in the bathroom and each time she comes out; I said, how many times. He said, well I can't tell you right offhand.

Q. Did you ask him if he had ever warned her? A. Yeah.

Q. What did he say? A. He said, he said, he warned her one time she didn't have no glasses on in the department.

Q. Did you discuss job knowledge with him? A. Yes.

Q. Would you describe that? A. I asked him how he rates them on a job; he said, he rates them as he sees them, from his experience as a foreman.

Q. Did he say that with respect to each factor? A. Each factor.

* * * * *

[1307] Q. Did you request with him Mrs. Barnes' request for a steward; any discussion with respect to that? A. He said, Mrs. Barnes didn't talk to me about no merit rating, why didn't she talk to me. I said, well she didn't have to. I said, have you read the record lately. He said, no. So I pulled out my copy of the contract on Article VII, Step I in the grievance procedure, and I read it off to him and told him: "An employee having such a grievance or complaint may, after notice to his immediate

supervisor, take it up either directly with his foreman or with the shop steward who shall take it up with the employee's foreman. "

* * * * *

[1310] Q. (By Mr. Harvey) Mr. Gaskin, with respect to your discussion with Foreman Howard Lyman concerning the grievance of Miss Betty Burnett, did you have any discussion with Foreman Lyman relative to the fact that she should have talked to the foreman or did not discuss her grievance with the foreman? A. Yeah.

Q. Would you describe that please? A. He said, well if Betty Burnett felt like she wasn't rated proper, why didn't she come and talk to me. I said, well she didn't have to. So I asked him had he read the contract and he said yes. So I told him to read this one here; he wouldn't. So I read it off to him on Article VII, Step I in the grievance procedure that: "An employee having such a grievance or complaint may, after notice to his immediate supervisor, take it up either directly with his foreman or with the shop steward..."

Q. O.K. You read the contract to him? A. Yeah.

Q. Did he comment on that? A. He said, well that didn't matter. He said because if she felt that way, she should discuss it with him. I said, she didn't have to because she felt you wouldn't explain it to her, and tell her what she had to do to get her raise. So she

[1311] went her way and got the shop steward because he's her lawyer in the shop and represents her.

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[1314]

CROSS EXAMINATION

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[1326] Q. Mr. Gaskins, going to the incident involving the briefcase; I believe it was April 24? A. Yes.

Q. I believe in your testimony you referred to an agreement between Mr. Salustro and Mr. Colby? A. So far as I was told, I used to carry the briefcase out.

[1327] I didn't have no problem, just open it up for the guards.

Q. I want to find out was this an oral agreement or was it in writing?

A. No, I never did see it in writing.

Q. Before this incident had taken place you had received passes, had you not, to take the briefcase out? A. We didn't have no passes, just open it at the guard's shack.

Q. You don't recall an occasion on July 3 and July 7 of 1969 where you were given passes by Mr. Lyman? A. No, because I never had no pass. They would give you a pass when you would go out on a grievance.

Q. Now after that incident on April 23 and 24 isn't it true that you received passes from Mr. Lyman after that time? A. No, I didn't get no passes, because I had to leave it in the locker; I just went out on second step grievance meetings in the afternoon at 2:00 o'clock; he said, you are going out of the building to a grievance.

Q. You would get a pass for that? A. Yeah, he'd give you a pass then. He gave you a pass when necessary.

Q. Do you recall his giving you a pass on May 6, 1970? A. I don't

recall.

Q. You don't remember?

TRIAL EXAMINER: What kind of pass - to go out, to leave

[1328] the area or to attend a grievance function.

MR. MCGUINN: I'm asking for either one.

TRIAL EXAMINER: Well he doesn't recall. The dates themselves may not mean much to the man.

Q. (By Mr. McGuinn) Isn't it true that after this incident you had a discussion with Foreman Lyman about getting a locker? A. I had a locker.

Q. Isn't it a fact that a locker was issued to you for the first time on May 12... A. They give me a locker when I first went there to start to work. Each employee is issued a locker.

Q. Was there any change made in your locker assignment after this incident that we're talking about here? A. No. I had a locker when I first started there.

* * * * *

[1331] FRANCIS E. ROGERS

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. Harvey) Give your name and address to the reporter, please. A. Francis Edward Rogers, Mount Paransus, Millington Road, East Haddam.

* * * * *

[1332] Q. Did you work for United Aircraft Corporation for about two years? A. Yes, sir.

* * * * *

Q. As of February 5, 1971, were you working in department 4951?

A. Yes, sir.

Q. In what plant, sir? A. Middletown.

Q. On the third shift? A. Yes.

Q. And who was your assistant foreman? A. Lewis Kasden.

Q. And the general foreman? A. Mr. John Provini.

[1333] Q. Can you tell me the names of the other assistant foremen on the other shifts in your department at that time? A. Yes, Fran Thomas and Pearly Robinson.

Q. On or about February 5, 1971, did you have a discussion or conversation with assistant foreman Kasden relative to an employee's report? A. Yes.

Q. Where did that discussion take place? A. His office.

Q. Was any one else present during this discussion? A. Yes, assistant foreman Pearly Robinson.

Q. Would you describe the discussion and circumstances leading up to it, Mr. Rogers? A. Well at 12:00 midnight I punched in, that would be Friday morning. I came in and I punched in. I went into the locker room; I went into my locker and put my things away. Approximately two minutes after 12:00, I was in there talking to George Wilbur. We proceeded to leave the locker room. Assistant Foreman Lewis

Kasden opened the door and he said this, he said: George, see Fran in my office. I proceeded to go to his office behind him. When I got in there, he sat down, went in a drawer and took out a piece of paper so big and he read a charge to me; it was an E.R., and employee's report.

Q. I show you what is in evidence as General Counsel's 48 and [1334] ask you whether or not that is the employee's report that he read to you, Mr. Rogers? A. Exactly it, sir.

Q. And he read this to you? A. Yes, he did.

Q. And what happened? A. Then he threw it on the table, on his desk, just threw it. And he told me to read it. I picked it up and I read it. I threw it back at him on the table. And he says, have you read it; I says, yes. He says, all right, he said, sign it. I told him, no, I wasn't signing anything without the presence of the shop steward. So he leaned back on his little reclining chair there and swivelled around and looked at me and he laughed in a kind of sarcastic, and kind of sarcastically said....

* * * * *

A. ...and said what do you mean you're not going to sign it. I said, that's right, I'm not signing anything without the presence of the shop steward. He said, sign first; then we'll get you a shop steward. And I said, no, shop steward now. At this time just about this time Pearly Robinson, assistant foreman Robinson was talking outside, talking to two other employees. He finished talking to those two men. He

[1335] came into the office, walked by me with a pipe in his mouth, and said, smile. I looked at him very coolly. He just proceeded around the other side of the desk and sat down, and he said, Fran, he said, have you seen your E.R. And I said, yes. And he says - and I believe Kasden spoke then; and he said, he refused to sign it. And Robinson shook his head and said you're very foolish, Fran, not to sign it. I told him I wasn't signing anything without the shop steward. So he went on with the procedure by saying we feel by demoting you, we'll make a better mechanic of you; but if you don't sign it - no, before that he said, excuse me, he said, but if you don't sign it, he says, there'll be a lot of trouble for you; he says, there's only a seven cents difference by being demoted back to Labor Grade A, from seven there's only seven cents difference; he says, I know it's only money; he says but if you don't sign it, he says, there's no way in hell you're ever going to get back in labor grade seven.

Q. Who said that - Mr. Rogers? A. Pearly Robinson.

Q. Now prior to that did Mr. Robinson say anything about signing the employee report for your own good? A. Yes, he did.

Q. Would you describe that? A. He told me it's for my own good; if I did sign it, I

[1336] would be reconsidered at a later date and get my old job rate back, which at that time was Job Rate 7.

Q. And after Mr. Robinson made that statement to you relative to signing it, did you reply to him? A. Yes, I did. I told him I wasn't

signing anything without a steward.

Q. All right. What happened next? A. Kasden broke in and said that it didn't make any difference, that he would sign it and Robinson would sign it as a witness; and it would make it just as good, it would make it valid. I told him to go right ahead because I wasn't signing anything without the shop steward.

Q. And did Robinson sign it? A. Yes, he did. Kasden signed it first and handed it to Robinson and then Robbie signed it.

Q. In your presence? A. Yes.

Q. Did you ask for a steward again? A. Yes, I did.

Q. What was the reply then? A. They didn't seem to understand or something, there was something lacking because...

Q. Go ahead, sir. A. Because he signed it and you know handed it to Robinson and he signed it. And at this Kasden got up and left.

[1337] Q. And how long did you stay in the office after he left? A. I proceeded to - in answer to your question, roughly about five or ten minutes.

Q. What did you do? A. Robinson came over to me and got up off the chair and walked over to me and was by the doorway or threshold, standing under the jam and he patted me on the back; and he said he hated to do it, Fran, but it was for my own good.

Q. How long were you in the office totally, Mr. Rogers? A. About forty-five minutes, sir.

Q. And after - you testified that you stayed for about ten minutes

after Kasden left, talking to Robinson? A. Yes, five or ten minutes, yes.

Q. Did you receive a steward? A. No, I didn't.

Q. What did you do; did you go back to work? A. Yes, I did.

Q. And after work did you go to the union hall? A. Yes.

Q. Did you file a grievance? A. Yes.

Q. I show you what has been marked for identification as General Counsel's Exhibit 79, the grievance form and ask you whether or not that's the grievance that you filled out and submitted?

[1338] TRIAL EXAMINER: This is 79.

MR. HARVEY: Yes.

[The document above referred to was marked General Counsel Ex. 79 for identification.]

Q. (By Mr. Harvey) Is that your signature there? A. Yes, sir.

MR. HARVEY: I'd like to offer it.

TRIAL EXAMINER: Any objection?

MR. MCGUINN: No.

TRIAL EXAMINER: General Counsel Exhibit 79 is received.

[The document heretofore marked General Counsel's Exhibit No. 79 was received in evidence.]

* * * * *

DIRECT EXAMINATION

Q. (By Mr. Gordon) Mr. Rogers, directing your attention to the incident involving the employee report; approximately how many times did you request supervision that they supply you a shop steward? A. Half a dozen times.

* * * * *

[1340]

CROSS EXAMINATION

Q. (By Mr. McGuinn) Mr. Rogers, this employee report was issued to you on February 5, it was not a demotion, was it? A. No, not in so many words, which I thought would have led to a demotion if you read it. The company was dissatisfied with my work.

* * * * *

[1345] TRIAL EXAMINER: On the record.

Mr. Raymond, would you please come forward. You were previously sworn, Mr. Raymond; you understand that you are still under oath.

* * * * *

MR. MCGUINN: Mr. Pollack, at this time I would like to make a motion. Inasmuch as I assume part of the testimony with respect to this witness is going to be concerning his suspension and that matter is currently pending in arbitration, the hearing date is to be selected, and I would move that the Trial Examiner defer to the arbitrator's decision in that case and not hear any evidence in this case with respect to that suspension.

TRIAL EXAMINER: Denied.

Whereupon,

GARY RAYMOND

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. Harvey) Would you give your full name and address to the reporter?

[1346] A. Gary Raymond, 29 Montevista Avenue, Newington, Connecticut.

Q. Mr. Raymond, you've worked for the company since 1964? A. Yes.

Q. You were appointed a shop steward, a union steward on October, 1967? A. That's correct.

Q. And you were appointed a shop steward in August, 1968? A. That's correct.

Q. You are still a shop steward? A. That's correct.

Q. You work in Department 96? A. That's correct.

Q. Who was your foreman there? A. Mr. Herbie Heim.

* * * * *

[1347] Q. In the period of time that you were under his supervision, during that course of time, were there any particular areas in which he was critical of your action to you? A. Yes, there was.

Q. Would you describe them.

* * * * *

A. I noticed that if I had started a conversation with one of the fellow employees there, that Mr. Heim the very second he saw that would be right there to break it up; he would come down and ask if there is any way he could possibly help us, if there was some problem there or something.

Q. Do other employees, other than yourself, in the department have a practice of carrying on brief discussions with others on non-working subjects? A. Yes.

Q. During non-working time? A. Yes, sir.

Q. I mean during work time, during work time?

[1348] A. Yes.

Q. Did any of the employees ever come to you and commented on this practice? A. Yes, several employees have commented on it.

MR. MCGUINN: I object to what other employees have told this witness. It cannot bind the company.

TRIAL EXAMINER: Overruled.

Q. Go ahead, Mr. Witness.

A. Several employees had told me that they had noticed this, and they were even told by Mr. Worski not to talk to the shop steward.

Q. They told you this? A. Yes.

Q. Who were some of these employees? A. One of these was Mr. Angelo Cessna; he said, hey, you're the shop steward and we can't talk to you. And another one was Mr. Lionnell.

Q. Does he work in your department 96? A. Yes.

* * * * *

[1351] Q. I see. Now directing your attention to on or about June 16, 1970. Did you have a conversation with Foreman Heim relative to punching out on union business? A. Yes, I did.

Q. Would you describe that conversation? A. I was called by Mr. Heim to go out on union business to Mr. Hartnett, Department 955. When he calls me out on union business, I have to report to his desk; and he gives me the cards to punch out on. Upon doing so, he stopped and he read me

part of the union contract; and told me that the grievance I had prior to that had taken too long; I had taken too much time. But, however, I was not the steward on that grievance; I had grieved myself. And so I tried to explain to him, well look if you feel, you know, that too much time was taken at that grievance, then you should get in touch with the steward that was here representing me and not take it up with me. He quickly changed his tune, and he said, oh, oh, I meant all the grievances you go out on, you're taking too much time in general. He then gave me the cards, I punched out, and went to see Mr. Hartnett.

* * * * *

[1353] Q. Mr. Raymond, directing your attention to on or about June 25, 1970, did you receive an oral warning from Mr. Heim relative to clocking out early? A. Yes, I did.

[1354] Q. Would you describe the circumstances of that and what you said to Mr. Heim and what he said to you, please? A. I had started to leave for the clock which was in the main aisle and was approximately a second before the buzzer was to go off. There were other rank and file men edging up toward the clock in this aisle minutes before this buzzer rang.

Q. Were there men in front of you? A. Yes.

Q. How far away from you were they? A. Not very far, mixed in.

Q. All right, go ahead. A. I started to head for the clock approximately a second before the buzzer was going to go off, and Mr. Heim was down the aisle waving at me. I saw him, and I continued to go on to the clock because the buzzer rang at that precise moment. I looked over.

He wasn't waving any more, so I proceeded to lunch. I came back from lunch, punched in.

He immediately came down and said that -- he gave me an oral warning and said that I was jumping the clock. I shouldn't do this. I should stay right by the machine til the buzzer rings. And I asked him why, he had not spoken to the other gentlemen that were in the aisle. He said nothing. I then told him that I felt I had a grievance. He was discriminating against me.

Q. Did he say anything?

[1355] A. No.

Q. Do you know as a fact and from your own knowledge, Mr. Raymond, whether or not Mr. Heim had spoken to the other employees?

A. He did not.

Q. Directing your attention to on or about June 30, 1970, did you have a discussion -- strike that -- did you have occasion to go to the lukus line relative to an employee grievance. A. Yes, I did.

Q. Would you describe that incident? A. This time I went to the lukus line to have -- to obtain a signature of Mr. Ronald Benshank who had grieved about overtime. The grievance was first taken up with a different foreman on a different line, and I had never had any dealings at all with this foreman Mr. Bly. Upon approaching his desk, he was sitting there, back in his chair with this look on his face, and his hand ---

MR. MCGUINN: Objection.

TRIAL EXAMINER: Sustained.

Q. (By Mr. Harvey) Describe what his face looked like when you walked up. A. Sort of an asinine look.

MR. MCGUINN: I object. Can't we just get what was said by the people.

[1356] TRIAL EXAMINER: I don't think any marked physical behavior would be -- I think it would be material or could be.

Q. (By Mr. Harvey) Did he have a smile on his face or was he smiling? A. No, sir.

Q. Can you describe what expression he had? A. The expression was one like a smirk.

TRIAL EXAMINER: All right.

Q. (By Mr. Harvey) And was he making any motion with his hand? A. Yes, he was sitting there going like this.

Q. What is that? Moving your fingers, your forefingers against your thumb, back and forth? A. Right, exactly that motion. And quite some time went by and I stood there, and he kept sitting there making this motion.

Q. Were there employees working in the area? A. Yes.

Q. Go ahead. A. He finally said, "yuka duca dion" or something similar.

Q. "Yuka, duca, dion"? A. Something similar to that.

Q. Okay. A. And he kept on continuing; he finally said, do you know what that means? I said, no, sir. He says, it means you talk too much. I then, somewhat shocked, I told him I don't

[1357] think it's really any of your business how much I talk. I just came down here to see Mr. Benshank, to get his signature. Would you please get him for me. He did so.

Q. Approximately how many employees would you estimate, from your observation, were working in that immediate area? A. The immediate area I would say 50.

* * * * *

[1361] Q. (By Mr. Harvey) Directing your attention to on or about September 4, 1970, did you receive foreman Heim's disposition of the Perry grievance, General Counsel's Exhibit 80 in evidence? A. Yes, I did.

Q. Did you have a conversation with him relative to that grievance? A. Yes.

Q. Would you describe his disposition and what was said? A. He called me to his desk. And upon approaching his desk he said that he wanted to give me a disposition. I gave him my copy and he put it under his copies. And he had a pencil in his hand. He held it up, and he said to me, now, I want to tell you just one thing, I'm going to run this line anyway, shape or form in which I see fit, and it's none of your business how I run this line.

* * * * *

[1362] Q. Did you make any statements to him relative to your interest in how he was running the line? A. Yes, I did tell him I didn't care how he runs his line. It wasn't any of my business. I was just acting in capacity of a steward trying to represent Mr. Perry and doing my job.

* * * * *

Q. (By Mr. Harvey) Mr. Raymond, directing your attention to on or about October 1, 1970, did you have occasion to discuss your merit rating with Mr. Heim on that day? A. Yes.

Q. When was the first time that you discussed the merit rating with Mr. Heim on October 1st? A. It was in the morning.

Q. Would you describe the discussions that you had and what [1363] he said and what you said? A. Yes, that morning I approached Mr. Heim, and I asked him for my merit rating. He insisted that the new merit ratings were not out yet and that I couldn't get it. After a brief conversation, I told him, Look, I haven't got my current rating yet, would you see if you can get this one. I'd like to have this merit rating.

Q. Were the merit ratings due about that time? A. Yes.

Q. Go ahead. A. He said he'd see what he could do. And I added, well, if the new merit rating is out, I would like to have that also if possible. He said, all right, he'd see what he could do, and he left. And I left.

Later that day, he came down in the afternoon, in fact he came down to my machine and told me to come to his desk. I did so.

Q. Now, he came down to your machine, and you had originally approached his desk and reported back to his desk as an employee, not as a steward, is that correct? A. Yes.

Q. You weren't clocked out on steward time? A. No. That's correct. Upon approaching his desk, he had a piece of paper there in

his hand and said, here. And I reached for the paper, and he pulled his hand away quickly.

[1364] Q. What kind of a paper was it? Describe it? A. Well, it was a little piece of pink paper, and it had on it 9-28-70 H-I-F-I-G.

Q. I see. Go ahead. A. He pulls it away and said, copy it down. Well, he could see I didn't have anything to copy it down on. So I asked him, well, why can't I have that piece of paper there, if you're just going to throw it away anyway. He said -- again he said, well, copy it down. So I said, okay, but have you got something I can copy it on.

So he had a little scratch pad on his desk. He tore a piece off that, and he slapped it in front of me hard, saying, here. So I copied down the 9-28-70 and my merit rating.

Q. Those were the figures -- the letters you described was your merit rating? A. Yes.

Q. Okay. A. I asked him then if this was my current merit rating or my new rating. He said it was my new rating. And I left. I went back to the machine. After running the machine a little while and thinking about this merit rating just received and trying to figure it out, I realized that I had dropped. So I then returned. He appeared to be somewhat upset that morning from his actions. So I wasn't going to discuss or

[1365] ask him why he didn't get my current rating.

Q. Did you return to his desk? A. I returned to his desk. I decided I was just going to question him on my merit rating. So I put

the pieces of paper that I had copied it on in front of him on his desk and I pointed to first factor on there, and I said what does this mean? What is this? And he said, that's a letter, "H". I said, well, that's fine, but what does it mean. How do I determine that's an "H"? How do I know I'm not a "G" or an "O" or some other letter on this.

He says, well, I have a standard that I go by. I said, you have a standard? He said, yes. I said, well, could I see the standard? Could I have a look at it? He said, yes. I said, you mean to tell me you're going to let me take a look at this standard. I said, in all my years at United Aircraft, I've never seen anything on how you determine a man is in this particular factor. I'd be very interested to see it. I'd really appreciate it. It would clear up a lot of things. He said, I will see what I can do. He left.

I returned back to my machine. Later that day as I was walking by his desk, he motioned me over with his hand. I came over. He said, the chart is not available at this time. But if you want to see a chart, you can go over to the union hall, they have charts over there. And they will show you one there. I told him, I said, look, Herbie, it can't be the [1366] same because the union doesn't recognize these charts.

Q. The union doesn't recognize them? A. I'm sorry. The company doesn't recognize the union's charts. They just say they don't even exist. He said, well, you want to see when you go there. Then there was quite a pause there, and I just thought, well, I would ask him what happened to my current merit rating. So I did.

I said, Herbie, how come you didn't get my current merit rating. And he said, I got you your current merit rating. Anything prior to that is not important. Then I was trying to explain to him how can you possibly know where you're going unless you know where you've been. And he was getting more and more upset all the time. And he started interrupting me every time. I wanted to say this to him. I don't really recall if I got the whole sentence out or not.

He started interrupting me. So I just told him, look, Herbie, I think this is a grievable matter. I'm asking for a steward, and I'll handle it myself. And he very sarcastically said to me, you mean you're going to represent yourself.

* * * * *

THE WITNESS: I said, yes. And I left.

Q. (By Mr. Harvey) Did you go back to your machine? A. Yes, I did.

Q. Did you have further occasion to talk to foreman Heim [1367] that day? A. Yes. Later that day, he came down to my machine, told me to punch out on union business and report to his desk. I did.

Q. Now, you are out on union business, and you went back? A. That's correct, on union time.

Q. Go ahead, sir. A. Upon approaching his desk, he was very red in the face. His hand was shaking. He had a pencil and was tapping it on the desk there. He was very, very nervous and upset. I figures it would be best if I didn't discuss this with him right then and there. So I asked him for a form 1282. The reason I gave him was I thought it would save

time if I sat down and looked at my knots -- my notes, rather, and when I did this, if I just made out this form 1282. And, if there wasn't any grievance, then that's it. Just tear it up and we would resolve the grievance.

Q. You had approached the desk and punched out in connection with your request for a steward? A. Yes.

Q. Okay, go ahead. A. I then went to the desk behind his, and, when I was making out my notes, the questions that I had, I only had one or two questions. And I happened to turn around and I observed him for a few moments. His foot was going under the [1368] chair and his pencil was really going away, and I noticed at that instant there that he reached up and he took a pad, a clip board, a hard clip board off the top of his desk and placed it where I would have to place my notes.

I turned around, and I finished in a minute or so. I come up to his desk. I held my notebooks. I have several of them. I held them over the top of the clip board, and I just stood there in that position for a while. He made no effort to remove this. He just kept staring at me and tapping away with his pencil. There were beads of sweat on his forehead there. He was terribly upset.

Q. All right. A. So I asked him very politely, Mr. Heim, would you please remove this clip board so I may set my notes down here. He did so at that time. I then proceeded to ask him a question that I had.

Q. Go ahead. What did he say? A. The question was why do you feel that my current merit rating could not be made available. But I never even got this question out. He started interrupting me. Well, I've just

got one thing I wanted to say, and at that time I told him, look, Mr. Heim, please let me say -- let me ask you this one question. I kept trying to talk to him like this, in this manner. I just couldn't get a word in edgewise there. He kept interrupting and what not.

[1369] And he started shaking that pencil at me. And all of a sudden he started telling me I wasn't acting in a manner becoming of a steward. So I -- and he really was getting upset. So I told him, well, Herbie, you're not acting like a foreman. And this really set him off because he came at me with that pencil. He stuck it right in my face. And I instinctively hit at it, knocked it out of his hand. It went on the floor.

He slapped the desk hard with his hand. I order you back to work. At that time, I reminded him, Mr. Heim, I'm on union time you know. And there was a pause there. He made no attempt at all to give me the cards, at that time, so I could go back to work.

* * * * *

[1370] Q. I see. A. He sort of had me in betwixt and between there. I didn't know what to do.

Q. All right. Go ahead. A. So I gave him--I figured I'd just try to give him the grievance form and if he'd sign it, you know, I'd go back to work. He kept ordering me back to work, kept telling me in a violent manner that I wasn't acting like a steward should and what-not, and the conversation became pointless and very heated.

* * * * *

Q. What happened to the pencil that you testified that you hit? A. I really don't recall what happened to the pencil.

[1371] Q. And how far did that--was that pencil from your face when you struck at it? A. Oh, I'd say about three to four inches.

Q. In what area of your face was the pencil when you struck it?

A. Oh, right about in here.

Q. Between your nose and your mouth? A. Yes, I'd say about that area.

Q. Did you strike--when you struck at the pencil, did you strike Mr. Heim's hand or did you feel your hand hit his hand or his skin?

A. No, it didn't.

Q. Now, getting back to your discussions with Mr. Heime, at this time how did this discussion end that morning? A. That was the afternoon.

Q. Oh, the afternoon. I stand corrected. You're quite correct.

A. Well, I could see it was going no place fast and he wouldn't give me the cards to punch off the time, excuse me, so I did the only thing I thought was proper. I said, "Look, Mr. Heime, before either one of us get off on the deep end here really bad, why don't you call personnel and ask them what they want you to do?" So he did so. It was quite a lengthy conversation there, and he turned to me and said, "Give me your grievance." So I handed it to him. He

[1372] filled in his corner. I tore up my copy, gave it to him. He then gave me the cards, and as he did so, he said, "You haven't heard the last of this yet." And I punched out--punched in, excuse me, and went back to work.

[1373] Q. Now, directing your attention to on or about October 5, 1970, Mr. Raymond, at about--strike that. Were you called to internal security that day? A. Yes, I was.

Q. About what time, sir? A. About 8:00 o'clock in the morning.

Q. Would you describe what happened that morning? A. Mr. Heime came down to me and told me to punch off my work, come to his desk. I did so, and he gave me a pass to the internal security office. I walked down there. When I got there, I went into the office, and there was a girl there and she told me to sit down on a bench or a couch like, whatever it was. And I sat there for some time. And finally she directed me into another office. I went to this office and there was a Mr. Johnson, I believe, and another man there. I can't recall his name right now.

Q. In the office? A. Yes. And they seemed very, very nice, so very polite. And they told me to sit down there, they just wanted to help me, and asked me if there was anything I want. And I said, "Well, gee, I really would like to have a steward here, but Mr. Lionel Labbe had told me that his job was threatened because he asked for a steward." So I said, "Look, I want to co-operate. I know my job is in the balance here. It's a [1374] very serious thing that you said I did. So I'll pass this over and I'll try to co-operate in any way I can. I'll answer your questions and do anything you want me to do." So they told me to start from the beginning, just what I told you here, the story.

* * * * *

Q. Did one of them take notes? A. Yes. One of them was taking notes, and then later they called in a girl from the office, and she sat there

and she took dictation. Later on she left. And they got very friendly. They talked about kids and, you know, very domestic things while they were waiting for her to come back. Finally she came back with a type-written statement there and he told me he was going to read it to me.

Q. Who said that? A. Mr. Johnson read it to me.

Q. Okay. A. I think it was him that told me that.

Q. Go ahead. A. That if there was anything in there at all that I didn't

[1375] agree with, to stop him. Well, he started reading it and it said something about that I wasn't there under any threat or fear, and so I stopped him. I said, "Look, I already explained to you that I was here under duress", and I knew they told Mr. Labbe that he couldn't, and I was scared and I told them that already. I was afraid for the job and everything. And I told them that I didn't think this was correct, that I was there under fear or threat. And he said, "Well, we can't take this out." So I said, "Okay." And he went on to read the rest of the statement there that was pretty much the same as I had said. There were a few minor things, like double stamps on the typewriter. things like this, that I had to initial. And then finally he asked me to sign it. I signed the statement, but right away the atmosphere in the room changed.

Q. In what way? Describe it for me. A. Well, the two men became very rough, very, almost like you see on television, you know.

* * * * *

Q. (By Mr. Harvey) Go ahead. A. They took the company rule book out, and he put it on the desk. And he started reading me statements,

and he said, "You knew this was true, didn't you?" I told him, "Yes, I [1376] know what the company rule book is. I even take it out on grievances when I go. Many, many cases come up when I can resolve a grievance with this. And, anyhow, they sent me back to work, and after I returned to work, I went to lunch, which was about 12:00 o'clock.

Q. How long had you been down in internal security? A. Approximately four hours.

Q. Now, later that afternoon, did you have a conversation with Mr. Heime relative to your suspension? A. Yes.

TRIAL EXAMINER: You hadn't been told as up to this--at this time that you had been suspended, had you?

THE WITNESS: No, sir, I hadn't.

Q. (By Mr. Harvey) About what time did that conversation take place, do you recall, in the afternoon? A. Approximately 3:00, 3:15, somewhere in there, a little after 3:00 o'clock.

Q. Would you describe it, please, and the circumstances? A. Yes. Mr. Heime came down and he told me that he wanted to see me at his desk. I looked down there. Mr. Roderick was down there waiting for us. I told Mr. Heime. And when I got there, he had an employee's report, and he asked me to read it, and it said something to the effect that I was insubordinate, I called names, and I was being suspended for a period of two weeks.

[1377] Q. Were you alone, did you say, Mr. Witness, or was someone with you? A. Mr. Roderick was there, a general foreman.

Q. Oh, the general foreman. I see. Okay. Go ahead.

A. He then asked me to sign it and I told him, "Well, I really don't agree with this statement. I don't think I should sign it." So Mr. Roderick grabbed it and he signed it for me. I believe Mr. Heime initialed it, however they do that. And he told me to put my tools away and that he would walk me out. I did. I came back to his desk. He proceeded to walk me out. I got half way down the aisle. I turned around. There was Mr. Roderick and another general foreman laughing, and they had big grins on their faces, and standing there with their arms folded, watching me go down the aisle. He took me out to the gate, took the badge, and told me not to come back for two weeks.

* * * * *

[1385] CROSS EXAMINATION

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[1388] Q. Did you file a grievance over this matter of being told by Mr. Heime that he did not expect you to leave your machine before the clock went off? A. Yes, I did.

Q. And what was the disposition of that grievance? A. I don't recall at this time.

Q. Isn't it a fact that there was no appeal from the denial at the first step? A. I can't say that's a fact. I'm not sure.

* * * * *

[1393] Q. Prior to the time that the pencil was knocked out of the foreman's hand, how long had the meeting taken between you and Mr. Heime? A. Do you want to add the time it took me to write up this grievance behind his desk at this table or just that conversation?

Q. Well, tell us how long it took you to write up the grievance and behind his table. A. I can't really--I'd say ten, fifteen minutes.

[1394] Q. And then after you wrote up that grievance, what happened next? A. After I wrote up the grievance, I returned to Mr. Heimes' desk, and as I said before, he had that clipboard there. I held my books over it and then I finally had to ask him to move this, and he did so.

Q. And then you had a conversation? A. Well, I tried to have a conversation with him. He kept interrupting me.

Q. How long did this attempted conversation go on? A. I can't really say. It was an upsetting experience.

TRIAL EXAMINER: Was it a short time, a minute or two?

THE WITNESS: It seemed like quite a while, so I'd say it was possible two or three minutes.

Q. (By Mr. McGuinn) Isn't it a fact, Mr. Raymond, that during this discussion you had that you told Foreman Heime that he was full of shit? A. No, sir. That's not a fact.

Q. Is it your testimony that you did not say that to him? A. I did not say that to him, no, sir.

Q. Isn't it a fact you called him an ass? A. No, I said he was acting like one.

Q. At what point in the conversation did that comment come out?

A. I tried to recall exactly what point that came out before,

[1395] and I believe it was after the incident that he slapped the desk and was ordering me back to work, that I was not acting in an orderly fashion and in a manner unbecoming of a steward.

Q. Well, was it before or after you knocked the pencil out of his hand? A. After.

* * * * *

[1396] Q. Now, during this meeting, you got fairly upset yourself, isn't that right? A. That's correct.

Q. In your written statement to the personnel or the security advisor, did you not say that it was possible that you could have said that Mr. Heime was full of shit? A. Yes, I did say it was possible. I think I would have said anything was possible at that time. I was trying to save my job there. I was just trying to co-operate with these guys. They asked me if it was possible. I said, "Sure it's possible. I could have said anything."

Q. Your testimony is now that you did not say that? A. No, I did not say that.

Q. But you said that he was acting like an ass? A. I said he was acting like an ass, yes.

* * * * *

[1398] LIONEL LABBE

was called as a witness by and on behalf of the General Counsel and, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. Harvey) Mr. Labbe, would you give your full name, spelling, and address to the Reporter for the record? A. Lionel Labbe, 74 Greenwood Road, Windsor Locks, Connecticut.

* * * * *

Q. Do you currently work at the Hamilton Standard Division of the United Aircraft Corporation? A. At Hamilton--no.

Q. I mean Pratt and Whitney. A. Yes.

[1399] MR. MCGUINN: May we have the paragraph of the complaint that's involved?

MR. HARVEY: This is corroboration for Mr. Raymond's testimony relative to----

TRIAL EXAMINER: I think that's sufficient.

MR. HARVEY: All right. The October 1 incident.

Q. (By Mr. Harvey) And you worked in Department 96 at the Pratt and Whitney Division? A. Right.

Q. Your foreman is Herbert Heime? A. Right.

Q. Now, directing your attention, Mr. Labbe, to October 2nd, 1970, were you called down to internal security? A. I was.

* * * * *

[1401] Q. About what time, sir? A. Anywhere from 2:00 o'clock to 2:30.

Q. Would you describe for us what occurred, please, that day?

A. My general foreman came to me with a pass, and he handed it to me telling me that I have to report to plant security. And he directed me to this. He gave me directions where to go. So I proceeded to this office, and then I went into the

[1402] lobby where there's a secretary. In a few minutes, one of the gentlemen came over, and he said, come with me. So I went to his office,

and he started writing on the pad which I noticed was something about the incident of Raymond and Mr. Heim.

Then I asked a question of this man, if -- I don't believe this is anything to do with plant security, but, if you intend to ask me questions, I would like to have the assistance of a steward or any union representation. I said, otherwise I won't answer any questions. So, he brought me back to the lobby, and he says, you wait for me here. So he went over and got somebody else.

He wanted me to repeat what I'd told him, which I did. And I gave him my pass, and he said, go back to your department. I've no more use for you. So I proceeded to my department. My foreman, Herbie Heim and McCully were standing by their desks. And I laid the pass on the desk, and I walked off to my job.

About five or ten minutes after this, my foreman came after me with another pass. And he told me that the personnel advisor would like to see me. So I proceeded to the personnel advisor's office. And there was two men in that office.

Q. Did you know them to be personnel advisors? A. No.

Q. Were they in the personnel advisor's office? A. Yes, they were.

[1403] Q. In the personnel department? A. Right. And one of the gentlemen asked me -- told me, he said, I understand that you are not too cooperative on the plant investigation. So he says, I'm going to ask you to go back and answer the questions that they asked you. I said, is this a condition of employment? I refuse to go. He says, I'll ask you again. So he asked me the same question.

Well, I said, if I don't, what will happen? He said, if you don't, he said, we'll walk you out the door now. And he says, whenever you're ready to talk, to answer the questions, he says, you call us, and we will let you know when we need you.

Q. Go ahead. A. So, he said, now, would you go? I said, you made up my mind. I said, you've already made the decision for me. So I said, I have no choice but go. I have to work. I can't afford to stay out. So, he then called my general foreman which was Jim McCully, and he told him to escort me to the plant security office. And the same guy who had me before took me into his office, and then we went through the same procedure.

We went through this questioning. I answered to the best of my ability. After this, he went to get somebody else before we signed those papers. And I signed that paper, the statement that I made, and then he gave me another piece of paper. He [1404] said, I want you to sign this too. And on that piece of paper, it said that there was no threat made to me in this office -- no threat made to me.

And I questioned him about this. I said, you know as well as I do that I was threatened on my job. Now, what is this paper for? Well, he answered that this was not -- I wasn't threatened in this office, the plant investigation office. So, he said, I want you to sign this and that. So I signed both of them.

Q. By this time the work day was over? A. It was, yeah.

Q. In the course of answering the man's questions relative to the

Heim-Raymond incident, did you tell him substantially what you saw?

A. Well, I don't exactly remember what I told him about this, but I didn't see too much. Raymond and Heim were having a discussion which happens many times.

Q. Is this generally what you told the plant security? A. Yes, that's right. I think that's what I told them.

Q. And how long were you in the plant security, totally? A. I think I was called there about -- oh, ten minutes after three. And I was out of the plant by four o'clock.

Q. This was after the shift ended? A. Right.

Q. Did you tell Gary Raymond about what had transpired?

[1405] A. Yes, I did.

MR. HARVEY: Nothing further.

CROSS EXAMINATION

Q. (By Mr. McGuinn) Isn't it true, Mr. Labbe, that when you were called over to the plant security you understood that you were not being investigated for any disciplinary actions being imposed on you? A. Right.

* * * * *

[1406] MICHELE LINDA ZIAMBBA

having been called as a witness by and on behalf of the General Counsel, was first duly sworn and was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. Harvey) Would you give your full name and address to the reporter? A. Michele Linda Ziamba, New Britin, Connecticut.

Q. Was your maiden name Michele Urbanowicz? A. Right.

Q. Are you the Michele Urbanowicz who testified on January 21, 1970, in an arbitration proceeding before an arbitrator, Charles O. Gregory, in connection with a grievance filed by you? A. Right.

* * * * *

[1407] Q. On or about July 20, 1970, did you request your foreman to get you a shop steward relative to your refusal to sign an AWOL book in connection with disciplinary action that was about to be taken? A. Yes.

Q. What is an AWOL book? A. Well, it's the absentee book, and AWOL means absent without leave.

Q. And who was your foreman? A. Mr. Ernie Poppolardo.

Q. What did Mr. Poppolardo say to you on that occasion? A. He asked me to sign the absentee book for AWOL. The AWOL was a Sunday. It was for overtime work which I had refused to do, and I refused to sign the absentee book.

Q. What did he say? A. Well, he kept -- he told me to sign the book, and I asked him to see a union steward, and he says not until I signed the book. I told him that I wouldn't sign for AWOL. Then I asked him again to see the union steward. And he says

[1408] that I couldn't. And I says, well, it's company policy for a person to be able to see a union steward, and he says, I'm acting for the company and you can't see a union steward.

Q. What discipline was about to be imposed upon you? A. Well, he told me, if I wasn't going to sign, to get my coat and go.

* * * * *

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

TRIAL EXAMINER: Please be seated.

DIRECT EXAMINATION

Q. (By Mr. Harvey) Mr. Avery, give your full name and address to the reporter. A. Frederick Avery, Box -- R.F.D. 2, Box 17C, Durham, Connecticut.

Q. Are you presently employed by Pratt & Whitney?

[1409] A. Yes, I am.

Q. In August, 1970, Mr. Avery, were you working in department 4050? A. That was 4053.

Q. 4053? A. Yeah.

Q. And your foreman was Joseph Norton? A. That's right.

MR. HARVEY: One moment, sir.

[1410] MR. HARVEY: Mr. Avery is testifying relative to paragraph 12 (c) of the complaint.

Q. (By Mr. Harvey) Now, directing your attention to on or about August 31, 1970, Mr. Avery, were you suspended from your work for three days by your foreman? A. Yes, I was.

Q. Would you describe the circumstances of that suspension, please.

A. I was in my department, at the desk, and Joseph Norton come over to me. He says, "You have three days off. Get out of here." So I didn't say a word, and that's exactly what I did. I got out of there. I punched

out. I met the steward. I met Ted Tobin on the way down.

Q. Who is Ted Tobin? A. That's the steward.

Q. The shop steward? A. The shop steward. And he told me, he says, "You go back to your department and tell them that you want representation, you want a shop steward." So I did just that.

Q. You went back to your department? A. I went back to my department. And he wouldn't hear of it. He told me, he says, "You get out of here."

Q. Who was this? A. That was Joseph Norton, the foreman.

Q. Was there anyone with Mr. Norton when he told you this?

[1411] A. Yes. Ernie Day. He's a group supervisor there.

Q. Now, when originally Mr. Norton told you to leave, did he give you a reason why you were suspended? A. No reason, no provocation, no.

Q. What did you say when he said, "Get out of here"? A. I didn't say a word. I just got out.

Q. Did you request a shop steward of him? A. I definitely did, yes.

Q. And what did he say to that? A. He just ignored me. He just said, "Get out." That's it.

Q. And you left? A. I left. And before I left, personnel was looking for me to come back to work.

Q. Would you describe that, please? What do you mean? A. Well, apparently it got to personnel. I don't know who called up. The general foreman must have. And they were trying to locate me. And I was already

down the union hall. That's when I filed the grievance.

Q. You went down to the union hall and filed a grievance? A. Yes.

Q. And did you hear anything more from the company on August 31, that day? A. That same day two men from personnel came and knocked at my door and told me to go back to work.

[1412] Q. What time did they arrive at your door? A. Oh, it was approximately around 5:30 some time.

Q. Now, my next question. Did they identify themselves? A. They did, but I didn't get their names. I think one of their names was on the telegram. I'm not sure.

Q. Did they say that they were from the personnel department?

A. Definitely, yes.

Q. What did they say to you? A. They just told me to come back to work the next morning. The following day I received a telegram telling me to go back to work. I have the telegram on me.

Q. May I see it, please? A. Yes.

[Document shown to Mr. Harvey.]

MR. HARVEY: Is 82 the next one you have, Mr. Examiner?

TRIAL EXAMINER: Yes.

Q. (By Mr. Harvey) Mr. Avery, I show you what's given me and what I've marked for identification as General Counsel's Exhibit 82, and I ask you whether or not this is the telegram which you received?

A. Definitely, yes.

MR. HARVEY: I move its introduction.

MR. MCGUINN: No objection.

TRIAL EXAMINER: General Counsel's Exhibit 82 is

[1413] received.

[The document above-referred to was marked General Counsel's Exhibit No. 82 for identification and was received in evidence.]

Q. (By Mr. Harvey) Now, when these two men from personnel came to your home, did they explain anything about the events or why they were there? A. No. I asked them outright. I says, "Why did you come to the house?" They said, "Well, we wanted you to come back to work." I said, "Well, there's a lot of trouble there." I said, "I'm getting cheated out of overtime. He swears to the people there." And I kept on talking to them. And they said, "Forget everything. Just come back to work tomorrow morning." So I returned to work the following day.

Q. Were you paid--strike that. You had been out of work for how long, then, pursuant to your foreman's instructions that day? A. I wasn't out of work at all.

Q. Were you paid for the time that you had left? A. Yes, I was paid for that the following week. I received my pay.

MR. HARVEY: All right. Nothing further.

MR. MCGUINN: Are we seriously alleging this is an unfair labor practice?

MR. HARVEY: Yes. When two men from personnel come in [1414] and say, "Forget it," after a grievance is filed, I indeed say this

is a violation.

TRIAL EXAMINER: Which may have been corrected. Any examination, Mr. McGuinn?

MR. MCGUINN: Oh, I guess I will. Do you have a statement?

TRIAL EXAMINER: Is it necessary? Is there any challenge to the fact he's related?

[Documents shown to Mr. McGuinn.]

CROSS EXAMINATION

Q. (By Mr. McGuinn) Mr. Avery, when did you first see Mr. Norton on August 31, 1970? A. When did I first see him?

Q. Yes. What time of the day? A. Oh, it must have been--it was close to 12:00 o'clock. It must have been ten minutes of 12:00 or quarter of 12:00, somewhere around there.

Q. Isn't it a fact that when you first saw him, you were seated on a desk, you had your legs crossed, and you were smoking a cigarette? A. That's true.

Q. And that Norton told you that it didn't appear that you wanted to work? Is that what he said? A. No. He just told me, "You've got three days off. Get out of here." That was it, almost the exact words.

[1415] Q. At some point during that day, did you file a grievance? A. I did, yes.

Q. At what time did you file a grievance? A. I'd say about between 12:30 and 1:00 o'clock in the afternoon.

Q. And did you--- A. That's the same day.

Q. And when you say you filed a grievance, does that mean that you

went over to the union hall and signed a grievance form? A. Yes.

Q. And do you know what happened to that grievance form?

A. Do I know what happened to it?

Q. Yes. A. No.

* * * * *

[1631] MR. HARVEY: Mr. Examiner, before I rested there were two pieces of evidence that I neglected to put in that I think are non-controversial but I think are essential to understanding the issues of the case and I would like to offer them at this time, if I may have your permission.

TRIAL EXAMINER: You may offer them.

MR. HARVEY: They consist of the two handbooks that are distributed to all new employees at Pratt & Whitney and Hamilton Standard and contain explanations of Company rules and regulations and also the merit rating plan and various elements of the working conditions of new employees.

I have marked the Pratt & Whitney handbook entitled, "You and Your Company", as General Counsel's Exhibit No. 87 and the Hamilton Standard book entitled, "Employees' Personal Handbook", as General Counsel's Exhibit No. 88, and I would move their admission and ask if my brother would stipulate to their admission.

[The documents above-referred to were marked General Counsel's Exhibits Nos. 87 and 88 for identification.]

* * * * *

[1662] Mr. Harvey: Just in connection with one matter, Mr. Examiner. Also, the last time we met, I identified I believe it is General Counsel's

87 and 88 which are the two rule books relative to new employees, that are issued to new employees at Pratt & Whitney and at Hamilton Standard.

And Respondent was going to check to make sure they are the latest and updated rule books.

MR. WELLS: We have copies of them. We will put them in now.

MR. HARVEY: Fine.

TRIAL EXAMINER: All right. General Counsel's Exhibits 87 and 88 will be received.

[The documents above-referred to, heretofore marked General Counsel's Exhibits Nos. 87 and 88, were received in evidence.]

* * * * *

[1665] NATHANIEL B. MORSE

was called as a witness by and on behalf of the Respondent

[1666] and, having been previously duly sworn, was further examined and further testified as follows:

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DIRECT EXAMINATION

Q. (By Mr. Wells) Mr. Morse, would you give us, for the record, a general description of the corporation's activities in the United States?

A. Well, the corporation is made up of 10 major units or divisions; the Pratt & Whitney Aircraft Division is the largest. There is the Sikorsky Aircraft Division. I should back up.

[1667] The Pratt & Whitney Aircraft Division is wholly located in the state of Connecticut, with the exception of its research and development facility which is in West Palm Beach, Florida. The Sikorsky Aircraft

Division is wholly located within the State of Connecticut, principally at Stratford and Bridgeport.

The Hamilton Standard Division is again almost wholly located within the State of Connecticut, with the exception of a service organization on the west coast, an overhaul and repair facility.

The United Aircraft Research Laboratories, which are located in East Hartford. United Aircraft International, which is an organization that does not manufacture anything but is the overseas selling arm of United Aircraft Corporation.

The Norden Aircraft Division or the Norden Division -- strike Aircraft -- which is fully located in the State of Connecticut in Norwalk, or near Norwalk. The Unisem subsidiary of United Aircraft, which is located in Pennsylvania and is a small electronics organization.

And United Aircraft of Canada, Limited, which is a subsidiary of United Aircraft Corporation and is located in Canada in the vicinity of Montreal.

I believe that is 10. I may have left one out. The population currently of the corporation total is approximately 60,000. The annual payroll is on the order of three quarters [1668] of a billion dollars. The 1970 sales were on the order of a billion and three quarters.

The corporate breakdown of business between commercial and military or defense is approximately 60/40 or 65/35 -- excuse me, 55/45 with the commercial being the larger.

Q. Did you mention Hamilton Standard? A. Yes, I did. Yes, very early I mentioned it had a small west coast operation. I know one I did forget, I knew there was one: United Technology Center which is located in the State of California and is engaged in rocket production of one type or another. And it has a subsidiary, Techite, which makes plastic reinforced pipe.

Q. Now, you have bargaining relations with unions in all of these major divisions that you have mentioned? A. Yes. With the exception of the research laboratories, with the exception of United Aircraft International which has no hourly employees. In all of the other locations there are bargaining representatives representing some portion of the payroll.

Q. What unions do you deal with? A. At UTC we deal with the IUE, at Norden we deal with the IUE. At Unisem in Pennsylvania we deal with the IUE. At Sikorsky we deal with the Teamsters. At Pratt & Whitney Aircraft in Connecticut and Florida we deal with the Machinists and the United Auto Workers.

[1669] In Canada we deal with the United Auto Workers. At Hamilton we deal with the Machinists. I think that covers them all: Machinists, UAW, IUE and Teamsters are the four unions with whom we have contracts.

Q. In all of the corporations plants where you deal with these various unions, do you have the same merit rating system for hourly paid employees?

A. Yes.

MR. GORDON: Objection.

TRIAL EXAMINER: Overruled.

THE WITNESS: Yes, we do. The plant in Canada, I should add, is slightly modified. But it's still the basic same plan including employee performance rating system.

Q. (By Mr. Wells) And at each of these plants do the unions recognize in their contract that the administration and operation of the employee performance rating plan are the function and responsibility solely of management? A. Yes.

MR. GORDON: I object, Mr. Examiner. What is the relevancy?

TRIAL EXAMINER: Objection overruled. This is by way of background.

THE WITNESS: The answer was yes.

Q. (By Mr. Wells) Now, I hand you what has been marked for identification as Respondent's Exhibit 14, 14 (a) through (f), [1670] and ask you if Respondent's Exhibit 14 is a description of the plants and facilities of Pratt & Whitney Aircraft Division in Connecticut?

A. Yes. These are all of the major wholly company-owned facilities in the State of Connecticut. Each of the photographs, 14 (a) through 14 (f), showing that information. And a sticker on the upper right-hand corner is Respondent's 14 is simply a summary of the information appearing on the photographs, the single difference being that, in Respondent's 14 (f), the sticker indicates that there is also a leased facility of 487,705 square feet occupying 36 acres. That also shows in that photograph in the immediate foreground, the lower portion of the picture.

MR. HARVEY: Which one is this?

THE WITNESS: Respondent's 14 (f), the Southington Plant.

And the building at about 6:00 to 7:00 o'clock is a leased facility. All of the other exhibits are wholly company-owned plants in the State of Connecticut.

Q. (By Mr. Wells) Directing your attention to Respondent's 14 for identification, will you tell us which of these plants are in the bargaining unit represented by Lodge 1746 of the IAM? A. The East Hartford plant.

Q. Is the Willgoos Laboratory also included?

[1671] A. And the Willgoos Laboratory and Rocky Hill.

Q. All right. The Middletown plant? A. Lodge 700 of the IAM.

Q. And that is a separate bargaining unit? A. That is a separate bargaining unit.

Q. The North Haven plant is represented by whom? A. By Local 1234 of the United Auto Workers.

Q. And the Southington plant? A. 1746-a of the Machinists.

Q. And all of Lodge 1746, 1746a and 700 are all part of District 91?

A. That is correct. Plus Lodge 743 of Hamilton.

MR. WELLS: I move that Respondent's 14, 14 (a) through (f) be received.

MR. HARVEY: No objection.

MR. GORDON: No objection.

TRIAL EXAMINER: Respondent's Exhibit 14, 14 (a) through (f) are received.

[The documents above-referred to, heretofore marked Respondent's Exhibits 14, 14 (a) through (f), were received in evidence.]

Q. (By Mr. Wells) Mr. Witness, I will hand you what has been

marked for identification as Respondent's Exhibit 15, 15 (a), (b), and (c).

I ask you if Respondent's 15 is a description of Hamilton Standard's major facility divisions in Connecticut?

[1672] A. Yes, it is. And it is comparable to Respondent's 14, already introduced, but applying to the Hamilton Standard Division of United Aircraft. And Respondent's 15 (a), 15 (b), and 15 (c) are also comparable to 14 (a) through (f), already received in evidence, but dealing in this case with the Hamilton Standard Division.

Q. Now, the hourly rated employees at these Hamilton Standard plants are represented by what? A. By Lodge 743 of the International Association of Machinists.

Q. And it also is a part of District 91? A. Yes. It completes District 91, District 91 being exclusively made up of United Aircraft locals or lodges.

Q. And how many bargaining units are involved in the facilities described in Respondent's Exhibit 15? A. Two. The one local but two contracts.

Q. In other words, it is two bargaining units, one covering buildings one and two and aerospace services department? A. And Building three.

Q. And the second unit is building three? A. Building three.

Q. The first unit is the larger bargaining unit comprised of what facilities? A. Buildings one and two.

Q. And building three comprises the second, is that true? A. Yes.

[1673] MR. WELLS: I move that Respondent's 15, 15 (a), (b), and (c) be received.

MR. HARVEY: I have a few questions on voir dire, if I may.

TRIAL EXAMINER: Yes.

VOIR DIRE EXAMINATION

Q. (By Mr. Harvey) When were these photographs take, Mr. Morse?

A. I'm not exactly certain, Mr. Harvey. My request was for the most recently available photographs.

Q. Directing your attention to Respondent's 15 (c), do I understand the legend correctly, that there are no employees presently at the aerospace services department? A. No, Mr. Harvey, and I should have mentioned that. If you will look at Respondent's 15 (a) you will see that it notes 4,735 employees.

Q. Yes. A. The employees working in the aerospace services department facility, shown in Respondent's 15 (c), rotate between that building and the buildings one and two, shown in 15 (a). Consequently, for simplicity's sake, they've all been included in the 4,735.

Q. How far is 15 (c) from 15 (a)? A. I'm not exactly certain. But it's a distance of less than 10 miles. And I would say approximately --
[1674] MR. WELLS: Two miles.

THE WITNESS: Three miles, actually.

Q. (By Mr. Harvey) That rotation is covered in the contracts about separate bargaining units? A. It is not a separate bargaining unit, sir. The separate bargaining units are represented by 15 (a) and Respondent's 15 (b).

Q. That is one unit? A. No. The separate bargaining unit, 15 (a),

is covered by a contract; 15 (b) is covered by a contract; and 15 (c) is part of 15 (a).

Q. (By Mr. Gordon) And those contracts are with the same lodge?

A. Yes. And they're both with Lodge 743, but they are separate bargaining units.

MR. HARVEY: No objection.

TRIAL EXAMINER: Respondent's Exhibit 15, 15 (a) through 15 (c) are received.

[The documents above-referred to, heretofore marked Respondent's Exhibits 15, 15 (a) through 15 (c), were received in evidence.]

MR. GORDON: One question. Did we establish how far buildings one and two are from building three?

THE WITNESS: There again, it's all on the same acreage, Mr. Gordon. If you will look at Respondent's 15 (a), you will [1675] see that there are 317 acres involved; 15 (b) shows no acreage. It's all part of that same 317. The building is approximately three quarters of a mile -- the buildings are approximately three quarters of a mile apart, but on the same piece of property.

DIRECT EXAMINATION (Resumed)

Q. (By Mr. Wells) Mr. Witness, I show you what has been marked for identification as Respondent's Exhibit 16 (a), and ask you if this is a description of the departments at the East Hartford plant which comprises the bargaining unit represented by Lodge 1746? A. Yes, it is.

Q. What is the essential work that is done in this complex where

there are, according to this exhibit, about 11,500 bargaining unit employees? A. The facilities are exclusively devoted, with one exception which I'll mention at the end of my comment, to the development and manufacture of propulsion units used either in aircraft or sea going vessels or in industrial applications such as gas lines, peaking units for electrical utilities, things of that kind.

The single exception is the power cell which is a very sophisticated electrical generating unit that best could be described as an extremely efficient battery that is noiseless, has no moving parts, and through chemical action produces [1676] electricity. And which has space applications and which is now moving into some domestic applications on an experimental basis.

The East Hartford facility currently is manufacturing approximately six different major propulsion engines which come in a variety of models that are too numerous for me to detail here. The operation could best be described, I believe, as a large job shop. There is no straight line production as you would know it in the automobile industry or in making refrigerators or television sets or anything of that kind.

It is a highly sophisticated manufacturing facility with all of the equipment owned by the company with the exception of a few machine tools that are exclusively used on government work, where we either fabricate or assemble or test the various components of the engines.

Only about 50 per cent of the engine is made by the company. Historically, Pratt & Whitney Aircraft Division has attempted to sub-

contract about 50 per cent of its engine production. It has reserved for itself, exclusively, all inspection operations, all assembly operations, all subassembly operations, and all test operations of the final product.

In the layout that you see here on this sheet, the page 1, page 2, which is not numbered, page 3, and page 4, and page 5, the one headed "Master Mechanics" in the left-hand column, all of those departments are numbered and described

[1677] and the number of bargaining unit employees and the number of foremen and the number of general foremen given for them in summary fashion, starting with the page heading "Engineering."

TRIAL EXAMINER: Excuse me a minute, Mr. Morse.

THE WITNESS: Surely.

TRIAL EXAMINER: Mr. Wells, do we need this detail?

MR. WELLS: Yes, we do.

TRIAL EXAMINER: How will it relate to the case?

MR. WELLS: Mr. Examiner, I assure you it will relate to the case. We are faced here with a statement that there is some sort of a pattern of discrimination at this plant. We need to show what the plant is and then we intend to show you where these isolated occurrences have occurred.

TRIAL EXAMINER: Well, your point, principally, is that this is a very large company with as many as 60,000 employees, as testified to by Mr. Morse. The documents show the complexity, the number of people involved. Is it necessary to get into a description of operations

on just what they do?

It seems to me that nobody is contesting the fact of the complexity.

MR. HARVEY: Mr. Examiner, may I be heard briefly?

TRIAL EXAMINER: Yes, Mr. Harvey.

MR. HARVEY: I would like to allay this pattern discussion and this word "pattern" the Respondent has been raising this morning and the last time we met for once and for all.
[1678] to rest. General Counsel does not allege a class action against stewards in this case, Mr. Examiner.

The pattern I was discussing and I was referring to and I alleged in the complaint is the pattern that began in the 1-CA-3355 and the testimony contained therein relative to the treatment and harassment and denial of information as far as merit rating grievances are concerned.

It continued throughout the Weild case which is in evidence here, in which Trial Examiner Weild found a pattern of discrimination and a pattern of harassment. It continued through the Peterson decision which followed in which the Trial Examiner found a continuation of the pattern of harassment and anti-union activities relative to the relations with stewards and employees.

It continued through the ---

TRIAL EXAMINER: Mr. Harvey, may I interrupt?

MR. HARVEY: And Mr. Sherman. These all were patterns that were found. That is the pattern I am referring to, not a class pattern.

TRIAL EXAMINER: Is the word "pattern" at all necessary, or just simply alleging that we have had unfair labor practices found in previous Board proceedings of a certain type. And this is further examples of unfair labor practice?

MR. HARVEY: That is precisely it, Mr. Examiner. And the reason I use the word "pattern" is both the courts and the [1679] Trial Examiners used that in their decision as "a pattern of conduct." I use it advisedly for that reason only.

TRIAL EXAMINER: Well Mr. Wells, of course whether the word "pattern" is relative or not, one of his defenses, as I understand it, are the allegations in this complaint, at least with certain respects, may be considered isolated in the context of the company's breadth of operation. I take it that is correct, Mr. Wells?

MR. WELLS: And I want to point out, for goodness sakes, instead of what the General Counsel says, I can read section 7 of the complaint in which it says, "The Respondent has followed and applied and is continuing to follow and apply, at its various plants, a continuing, deliberate and historical pattern of unlawful discrimination and harassment of Charging Party stewards."

If he doesn't mean it, why doesn't he strike that from the complaint?

MR. HARVEY: I certainly do mean it and I think I have explained it.

TRIAL EXAMINER: Well, with the explanation, Mr. Wells, I shall assure you and I shall notify the Charging Party and the General Counsel that, so far as I am concerned, the issues in the case before me are whether

the particular incidents described in the complaint do, in one or more of them, constitute a violation of either Section 8 (a) (1), (3), or (5) of [1680] the Act.

MR. HARVEY: Fine, Mr. Examiner. I understand and I accept your ---

TRIAL EXAMINER: That is, I will not base a finding superimposed -- I mean, find a violation other than those spelled out by the particular incidents. To be more precise, the complaint with respect to 8 (a) (1) alleges that certain union employees were subjected to a discriminatory application. With respect to these employees, that they were harassed by various applications of company rules.

That with respect to at least two other employees, that employees were suspended for discriminatory reasons. And with respect to 8 (a) (5) that the company, by refusing to furnish certain information, violated 8 (a) (5) by bypassing the union stewards in certain respects. It is those affairs I am concerned with in this case. I attach no significance to the word "pattern" as such in this case.

MR. HARVEY: General Counsel, Mr. Examiner, will argue that in the light of the background of this case, that it is incredible that any act, particularly acts involved or alleged in this complaint, could ever be isolated conduct. But with that ---

TRIAL EXAMINER: That would be a legal judgment. And I think so far as the Company's contention, as I understand it, at least in part, that a few incidents over the course of a

[1681] year or two in a company of this size may truly be considered isolated, and not represent any determined company position.

MR. HARVEY: I understand that to be an issue in this case.

* * * * *

[1686] Q. (By Mr. Wells) Mr. Witness, Respondent's 16 (a) is a separate bargaining unit, is that correct? A. Yes, it is, sir.

Q. I show you what has been marked for identification as Respondent's Exhibit 16 (b). I ask you, Mr. Witness, if this is a similar description of the Middletown facilities, contains the bargaining unit represented by Lodge 700? A. Yes, it is.

Q. What particular produce is manufactured in Middletown?

A. Middletown facility is primarily concerned with the production of certain parts and the shop assembly and final assembly and testing of the commercial engine known as the JT-9, used to power the 747.

Q. Is it accurate to say this is what you call a "shatter plant"? It actually would have been part of the East Hartford plant had you had room for it there? A. That is true of all the Pratt & Whitney facilities. There is no plant of Pratt & Whitney Aircraft that makes a single product or just a couple of products. They are nothing more than a physical relocation of departments that otherwise would have been in East Hartford but they didn't fit.

[1687] MR. WELLS: I move that Respondent's 16 (b) be received.

MR. HARVEY: No objection.

TRIAL EXAMINER: Respondent's 16 (b) is received.

[The document above-referred to, heretofore marked Respondent's Exhibit 16 (b), was received in evidence.]

Q. (By Mr. Wells) I show you what has been marked as Respondent's 16 (c) for identification, and ask you if this is a description of the Hamilton Standard Division operations at buildings 1 and 2 and the aerospace services department? A. Yes.

Q. What do they manufacture at the Hamilton Standard Division plant which are described in Exhibit 16 (c)? A. Fundamentally, the Division is engaged in development, manufacture, assembly and test of fuel control devices for jet engines, including Pratt & Whitney's jet engines, and environmental control systems, which is simply a fancy name for very sophisticated air conditioning or air conditioning and heating units, used in everything from airplanes to back packs for moon walkers.

In addition, the Division manufactures and has developed -- manufactured a variety of other products, primarily and historically, propellers, but also electronic beam, welding equipment, various electronic devices, guidance devices, servo-mechanisms, heat exchangers, converters, and bio-medical

[1688] products, reinforced fibers, boron filament, specifically ---

TRIAL EXAMINER: I think we have an adequate description.

Q. (By Mr. Wells) In Respondent's Exhibit 16 (c), the department numbers are either 100 numbers, 200 numbers or 500 numbers. Does that designate the buildings in which they are located? A. Yes, it does.

Q. Number five being the --- A. Aerospace ---

Q. Facility shown on --- A. "C" I think.

Q. 15 (c). A. Yes.

MR. WELLS: I move that Respondent's 16 (c) be received in evidence.

MR. HARVEY: No objection.

TRIAL EXAMINER: Respondent's Exhibit 16 (c) is received.

[The document above-referred to, heretofore marked Respondent's Exhibit 16 (c), was received in evidence.]

* * * * *

[1689] Q. (By Mr. Wells) I show you what has been marked for identification as Respondent's Exhibit No. 16 (d), and ask you if this is a description of the Hamilton Standard operation and employee-supervisory complement, building 3? A. Yes, it is.

Q. And that is a separate bargaining unit, represented by Lodge 743?

A. Yes. It's referred to as the electronics building as well as by building 3.

MR. WELLS: I move it be received in evidence.

MR. HARVEY: No objection.

TRIAL EXAMINER: Respondent's Exhibit 16 (d) is received.

[The document above-referred to, heretofore marked Respondent's Exhibit 16 (d), was received in evidence.]

* * * * *

[1694] JAMES MICHAEL KANE

was called as a witness by and on behalf of the Respondent and, after having been first duly sworn, was examined and testified as follows:

TRIAL EXAMINER: Please be seated

DIRECT EXAMINATION

Q. (By Mr. McGuinn) Mr. Kane, will you give your full name and address for the record? A. James Michael Kane, 279 Meadow Street, Agawam, Mass.

Q. And by whom are you employed, sir? A. Hamilton Standard.

Q. And how long have you been employed by Hamilton Standard Division? A. Eleven years.

Q. Could you give us what your current job is? A. Sheet metal foreman.

Q. And how long have you been sheet metal foreman? A. About a year and a half.

[1695] Q. And before you became a foreman, what job or jobs did you occupy with Hamilton Standard? A. Before I became foreman, I held a leadman position in the heat treat department, I held a leadman position in the sheet metal department, various shifts, I held a development sheet metal classification and various other sheet metal classifications before that.

Q. And those job classifications that you just mentioned, are they within the bargaining unit? A. Yes, they are.

Q. Mr. Kane, directing your attention to June and July 1970, were you a foreman at that time? A. Yes, I was.

Q. During that period of time, did an employee names Russell Lee work for you? A. Yes, he did.

Q. How long had Mr. Lee worked for you prior to June and July of 1970? A. Since I became a foreman on January 16, 1970.

Q. Drawing your attention to the period of May and June of 1970, did you have any occasion to give Mr. Lee any verbal warning or warnings during this period of time? A. Yes, I did.

Q. Could you please state, to the best of your recollection, the types of warnings you gave Mr. Lee during that period of [1696] time?

MR. GORDON: What is the period?

MR. MCGUINN: May and June of 1970.

THE WITNESS: I gave Mr. Lee three verbal warnings in May: one on scrapping of material, one on performance, one out of the area for 18 minutes. I gave him one in June: for, again, out of the area for 20 minutes.

Q. (By Mr. McGuinn) Now, going to the period or the day of July 28, 1970, I will ask you whether you can recall a discussion you had with Mr. Russell Lee on that date? A. Yes, I can.

Q. Can you tell us what, if anything, prompted your discussion with Mr. Lee on that particular date? A. There were two basic factors.

MR. GORDON: Pardon me. What day?

MR. MCGUINN: July 28, 1970.

MR. GORDON: Thank you.

THE WITNESS: There were two factors. One, about a week prior to that date, Mr. Lee requested a review of his performance and progress in the area, and two, from the time he requested this and the time I actually talked to him, we -- I had a meeting with my supervision. Basically, the content was that we were going to eliminate the third shift. We were going

to reallocate manpower within the department. And we were asked, the foremen of sheet metal, to review all of our [1697] employees for correct job classification, attendance records, and so forth and so on. Anything that needed to be corrected, we were to bring up to date for the impending reallocation of manpower.

Q. (By Mr. McGuinn) You spoke about your immediate supervision. Who is your immediate supervision? A. Russell Galuska, general foreman.

Q. Now, would you tell us, to the best of your recollection, what the nature of that discussion was with Mr. Lee on July 28? A. Basically, Russell wanted to know about his performance. This is a trend that I develop for all my people. And we went over this. And I then went into a discussion with Mr. Lee on some of his weak points, as I saw them.

Q. And did you mention them specifically? A. Yes, I did. Specifically, rule number -- and content -- rules 3, 4 and 8 of the Employee's Handbook, the company rules.

Q. At this time, Mr. Witness, I would like to show you a copy of General Counsel's Exhibit No. 88, called "Employee's Personal Handbook", and refer you to page 22 of General Counsel's Exhibit No. 88. And ask you if that is the rulebook you are referring to and those are the rules you are talking about? A. Yes, they are.

Q. Now, which rules in particular? A. Rules 3, 4 and 8.

[1698] Q. And did you tell him in what way he was deficient in those rules? A. Yes, I did.

Q. What did you say? A. Well, pertaining to rule 3, "Fighting, wrestling, fooling, running or engaging in horseplay." In January of that

year, 1970, I observed Mr. Lee engaging in horseplay with another employee.

Rule No. 4, "Loafing, idleness during working hours, failure to start work at the proper time or stopping work before the end of a shift." Mr. Lee on several occasions, I have noticed him out of the area for 17, 18, 20 minutes. I went over this with him.

And rule no. 8, "Visiting other departments, except in respect to assigned work or with the express permission of a foreman or supervisor, or interfering in any way with the work of others." Mr. Lee has a tendency sometimes to ---

Q. Excuse me. Did you tell Mr. Lee this? A. Yes, I did. I had the rulebook in front of me.

Q. And what did you tell him his tendency was? A. Well, he does visit other departments. He cuts through other departments. I had observed this frequently and I told Mr. Lee that I would like him to use prescribed aisles when traveling anywhere in the plant, including the men's room.

At this time, Mr. Lee asked me if I knew he was an elected [1699] shop steward. I told Mr. Lee that I didn't, but I congratulated him anyway. And that was about the extent of the conversation.

Q. Now, in your testimony you said that you had told him he was to take the prescribed aisles to the men's room? A. Yes.

Q. Now, from Mr. Lee's normal place of work, going by the prescribed aisle as opposed to cutting through a department, what would be the difference in time involved in going one way or going the other way? A. A matter of seconds.

Q. Did Mr. Lee ever tell you about a history of nose bleeding that he had? A. Yes. Yes, he did.

Q. And what, if anything, did you say to him in regard to his nose bleeding condition? A. I informed Mr. Lee that whenever he had a nose bleed, he was to report to me so I could send him to the medical department for proper attention and care.

Q. Did Mr. Lee ever so report to you? A. Yes.

Q. On approximately how many occasions? A. I think on one occasion.

Q. I will ask you, Mr. Kane, whether you began your remarks with Mr. Lee on July 28 by telling him that since he'd been [1700] elected shop steward ---

MR. HARVEY: Objection.

MR. GORDON: Objection.

MR. MCGUINN: Let me get it out first.

MR. HARVEY: I think the question is too damaging to allow.

TRIAL EXAMINER: Just a minute. Would you repeat the question please?

Q. (By Mr. McGuinn) I am going to ask you, Mr. Kane, did you begin your remarks on the 28th with Mr. Lee by saying that since he'd been elected shop steward, you had been instructed by higher management to talk to him?

MR. HARVEY: Objection.

TRIAL EXAMINER: Overruled.

THE WITNESS: No, I did not.

Q. (By Mr. McGuinn) During this conversation that you had with Mr. Lee on the 28th did you say anything to him to the effect that since he was now a shop steward he would be looked upon differently by management? A. No, I did not.

Q. During this conversation that you had with Mr. Lee on the 28th did you say anything to him to the effect that since he was now a shop steward he would be looked upon more harshly by management? A. No, I did not.

[1701] Q. During this conversation on the 28th with Mr. Lee, did you say anything to the effect that you would expect him to follow the contract 100 per cent? A. No, I did not.

Q. During your conversation with Mr. Lee on July 28, 1970, were there any other employees in the department in a position to be able to overhear the conversation you had with him? A. No.

Q. Mr. Kane, had you had any similar talks with any other employees in your department in 1970, prior to your talk with Mr. Lee on July 28th? A. Yes, I did.

Q. Can you recall the names of any such employees and what you spoke to them about? A. Willy Scott, James Glazer, Medesco Pizzoferrato, and John Wanda.

Q. Do you recall what time period you had those discussions with those employees in? A. May and June.

Q. And do you recall the general nature of the discussion you had with those four employees? A. I believe it was primarily about performance.

Q. By the way, Mr. Kane, do you know where Mr. Lee was working on the 28th, what part of the shop? A. Yes, I do.

[1702] Q. Where was it? A. The stone saw.

Q. And was he working on the stone saw all of the day of July 28?

A. Other than going to and from a material rack, yes.

Q. Do you recall where he was working on the 29th? A. Yes. The stone saw again. And again, other than getting material and delivering cut material, he was at the saw all day.

Q. After you had your conversation with Mr. Lee on July 28, did you have any further discussion with anyone that day relative to your conversation with Mr. Lee? A. Yes, I did.

Q. With whom was that discussion? A. Kenneth Couch.

Q. And who is Kenneth Couch? A. He is a second shift employee in the sheet metal department.

Q. And can you tell me the substance of your discussion with Mr.

Couch on that subject? A. Mr. Couch called me at home, approximately 5:00 o'clock, and asked me, told me that he had heard talk that I was leaning on Lee, harassing him and, you know, what's going on? And I informed Mr. Lee that I really didn't know what was going on.

[1703] Q. I think you said Mr. Lee. You were talking about Mr. Couch.

A. Mr. Couch.

Q. What did you say to Mr. Couch? A. I told Mr. Couch that I really didn't know what he was talking about, nothing like that had transpired.

Q. Did you have another conversation with Mr. Lee on July 29?

A. Yes, I did.

Q. What, if anything, prompted this discussion? A. After talking to Mr. Couch the night before, I got the impression that maybe Mr. Lee had ---

MR. HARVEY: Objection.

TRIAL EXAMINER: Overruled.

THE WITNESS: That Mr. Lee had got the wrong idea from the conversation. So I went back to Mr. Lee to firmly implant in his mind that the conversation was solely about his performance per his request.

Q. (By Mr. McGuinn) What did you say to Mr. Lee on the 29th?

A. I told Mr. Lee that "I don't know what kind of an idea you drew from the conversation yesterday, but it was solely to go over your performance per your request and for me to emphasize some of the weak points that you have." And again, I mentioned specifically rules 3, 4 and 8.

And Mr. Lee said that he thought that I was leaning on [1704] him. And I told him that the only -- again, the only thing that the talk was about was performance and general rules 3, 4 and 8. And that's about it.

Q. Mr. Kane, during the discussion you had with Mr. Lee on the 29th of July did you tell Mr. Lee that you didn't want him to think that the July 28th conversation was a threat? A. No, I did not.

Q. Did you say that he could forget the conversation of the previous day? A. No.

Q. Do you recall getting a shop steward for Mr. Lee? A. Yes.

Q. On July 29? A. Yes.

Q. Was that at his request? A. Yes.

Q. Who was the shop steward? A. Alex Lazeroff.

Q. Did you have any discussion with Mr. Lazeroff on Lee's complaint at the time that he came over to process the grievance? A. Yes.

Q. What was said? A. On the way over to Mr. Lee's work area, Alex asked me what was going on. And I told him that he would find out.

[1705] Q. Did you, at that time, say anything to Lazeroff to the effect that you had done something yesterday that you shouldn't have done? A. No.

Q. I believe you testified previously that you were familiar with the rules 3, 4 and 8 of the Hamilton Standard Division in General Counsel's Exhibit 88. A. Yes.

Q. Do you, as a foreman, require adherence to those rules? A. Yes.

Q. Have you ever had occasion to warn or discipline employees for breach of these rules? A. Yes.

Q. How often would you estimate, on a monthly basis, would you warn or discipline employees on these subjects? A. About two or three times a month.

Q. Mr. Kane, I will ask you whether you, as a foreman, permit discussions of matters like bowling, baseball and other non-work related subjects on working time? A. No. But I do know it goes on.

* * * * *

LOUIS KASDEN

[1787]

DIRECT EXAMINATION

Q. (By Mr. McGuinn) Mr. Kasden, would you give your full name

and address for the record? A. Louis Kasden, Gadpouch Road,
Easthampton, Mass.

Q. And by whom are you employed, sir? A. Pratt & Whitney,
Middletown.

Q. Middletown plant did you say? A. Middletown, yes.

Q. And for how long have you been employed by the company?

A. Approximately eight years.

Q. Would you tell us what your current job is? A. Rig tester.

MR. HARVEY: Say that again please?

THE WITNESS: Rig tester.

Q. (By Mr. McGuinn) Is that a job in the bargaining unit? A. Yes,
sir.

Q. Prior to the time you had your current position, what was your
previous position at the company? A. Assistant foreman.

Q. For what period of time were you assistant foreman? A. Approx-
imately January of '70 to May of '71.

[1788] Q. And how did it happen that you went from assistant supervisor
back into the bargaining unit in May of 1971? A. Cutbacks.

Q. And on or about February 4 or 5, 1971, were you at that time
acting as an assistant foreman? A. Yes, I was.

Q. Did you know an employee by the name of Francis Rogers? A. Yes.

Q. How long did Rogers work for you at that time? A. Yes, he did.

Q. For how long a period had Rogers worked for you, prior to
February 4 or 5, 1971? A. Approximately three or four months.

Q. Do you recall an incident in early February 1971, involving the issuance of an employee report on Mr. Rogers? A. Yes, I do.

TRIAL EXAMINER: That would be 1970?

MR. MCGUINN: That would be 1971. This is the one allegation in the complaint ---

TRIAL EXAMINER: I'm sorry. I see where that has been amended.

MR. HARVEY: That was a typo.

Q. (By Mr. McGuinn) Mr. Kasden, I wish you would tell us exactly what happened on that day involving this employee report.

[1789] A. It was third shift, beginning of third shift.

Q. And when does the third shift start, sir? A. Twelve midnight. I went to the men's locker room and called Rogers to the foreman's office. He came down and I told him I was going to give him an employee's report and I read it to him.

I handed it to him to read. He handed it back and he said -- I asked him to sign it. He said, "If I have to sign it I want a shop steward." And I told him I can't force him to sign it, I would have it witnessed.

And I wasn't sure if I heard him correctly or I knew what he was saying. So I asked him if he was asking me for a shop steward. He didn't reply.

Q. He did not reply? A. He didn't.

Q. And what happened after you asked him was he asking for a shop steward? A. No reply at all. He just stared at the ceiling.

Q. What happened then? A. Robinson, Perley Robinson came through the door just about then. I explained to him what was happening and asked him to witness the employee's report. We had a small discussion of Mr. Rogers' performance and then he signed it, I signed it. Then we went back to work.

Q. How long did the conversation last?

[1790] A. Approximately 15, 20 minutes.

Q. Now, after you signed the employee report and Perley Robinson witnessed it, did the employee Rogers request a shop steward? A. No.

Q. Did either you or Mr. Robinson ever tell Rogers in this meeting that he was making a mistake or being foolish by not signing the employee report? A. No.

Q. Did either you or Robinson tell Rogers that if he didn't sign it he would never get back to labor grade 7? A. No.

Q. During this meeting, did you throw the employee report down at the table?

MR. HARVEY: I object to this leading form of questions.

TRIAL EXAMINER: I understand it is leading. And of course, if Respondent chooses to put its case in that way, it is up to it. Leading questions don't ordinarily get too much weight.

MR. MC GUINN: Your Honor, I am faced with a record that reads, as I said before, like a novel. We have many of these descriptions that went on ---

TRIAL EXAMINER: It may be this is the only way you can

ask the witness.

MR. MC GUINN: I am attempting to ask the witness what [1791] happened first of all.

TRIAL EXAMINER: I understand. The questions themselves, in the end result, may not be too material or necessary. You have had the witness' denial of any request of a shop steward, the denial of any threat.

The fact that you are now having him deny the specific testimony of the other witness may not add very much to what you have already adduced from him. But I think it is perfectly proper for you to get the specific denials in.

Q. (By Mr. McGuinn) During this meeting, did you throw the employee report down on the table when Mr. Rogers came in? A. No, I did not.

Q. Had you ever issued an employee report before, Mr. Kasden?

A. No.

MR. HARVEY: What was the answer to that?

THE WITNESS: No.

Q. (By Mr. McGuinn) During this meeting did you act in a sarcastic manner?

MR. HARVEY: Objection.

TRIAL EXAMINER: Overruled.

THE WITNESS: No, I did not. I was a little nervous.

Q. (By Mr. McGuinn) Why were you nervous? A. It was the first time I'd been through this and I wanted to make sure I got everything right.

Q. Were you familiar with the procedure to be followed in
[1792] the event an employee did not sign an employee report? A. Yes.

Q. Had you discussed that with anyone else in management?

A. Yes, I had.

Q. And what was the nature of that discussion you had with higher
officials in management? A. Well, they told me that ---

MR. GORDON: Who is "they" please?

THE WITNESS: Personnel advisors.

Q. (By Mr. McGuinn) Do you happen to know which one it was you
were talking to at that time? A. I believe it was Tom Cryer.

Q. All right. What did Mr. Cryer tell you about? A. He told me
to read it to the employee, have the employee read it, ask him to sign it.
If he refused, to have it witnessed by supervision in the area closest to
us; call somebody within supervision to witness it.

Q. Did Mr. Cryer tell you anything about calling a shop steward
when he had this discussion with you concerning the procedure to follow
in issuing an employee report? A. He did say if the employee asked
for a shop steward, we didn't have to call for one until after it was
carried out, after it was either signed or witnessed. In other words,
you would get one ---

Q. After it was witnessed? What was the policy then?

[1793] A. You would get him one.

Q. Did you have any reason for not getting a shop steward? A. No.

* * * * *

[1803]

PERLEY ROBINSON

was called as a witness by and on behalf of the Respondent and, after having been first duly sworn, was examined and testified as follows:

* * * * *

[1804]

DIRECT EXAMINATION

Q. (By Mr. McGuinn) Mr. Robinson, will you give your full name and address for the record? A. Perley Lee Robinson, 197 Wasseco Road, South Glaston, Meriden.

Q. By whom are you employed, Mr. Robinson? A. Pratt & Whitney Aircraft, Middletown Division.

Q. How long have you been employed by the company? A. Twenty-three years.

Q. What is your current job? A. Assistant foreman.

Q. How long have you held that position? A. Since July 15th of '70.

Q. And before you held that position, what position did you hold?

A. I was foreman.

Q. And what other jobs have you held with the company? A. Starting from foreman, back to assistant foreman?

Q. Let's do it the way the Trial Examiner wants to do it. Were you ever a member of the bargaining unit? A. Yes, I was.

Q. And were you an assistant foreman on February 4 and 5,

[1805] 1971? A. Yes.

Q. And do you know an employee named Rogers? A. Yes.

Q. How long have you known Mr. Rogers in his capacity as an employee

for the company? A. Since taking over third shift on July 15th, 1970.

Q. So that would be your first acquaintance with him? A. This would be my first acquaintance with him as a supervisor, yes.

Q. Do you recall an incident on either February 4 or 5, 1971, involving the issuance of an employee report to Rogers? A. Yes.

Q. Will you tell us what participation, if any, you had in this meeting involving the issuance of the employee report? A. Well, the way I recall it, I walked into the office, opened the door. The door was closed.

Q. Had anyone asked you to come in? A. No.

Q. Why did you go in? A. There was -- I had finished talking to people and Kasden was in the office and we usually have some conversation after the end of the shift. As far as I was concerned, my shift was over.

Q. And what happened when you walked into the office?

[1806] A. Kasden explained that he was presenting an employee report to Mr. Rogers and Mr. Rogers refused to sign it.

Q. And what happened after that? A. Our desks are facing each other. And I took the desk facing Kasden. And he handed me the employee's report, I read it. And I believe I said to Rogers "This is simply a record of a transaction between supervision and the employee. I can witness it. It will be the same as you signing it."

Q. And what, if anything, did Rogers say to that? A. He said nothing.

Q. Well, what happened after that? A. I signed the report. I

handed it back to Mr. Kasden. And I think he filed it away.

Q. What happened after that? A. I'd say the whole thing took less than 10 minutes. Kasden left or got up to leave. Mr. Rogers was standing to my right; he started to leave. And I followed out. And I met Mr. Rogers at the doorway. As he was walking out, I was coming behind.

I put my hand on his shoulder. I said, "I'm sorry, this is the way things are". I have no personal animosity toward the man.

Q. During this meeting, did you say anything to the effect that Rogers was foolish for not signing the employee report? A. No.

[1807] Q. At this time, talking about this meeting on February 4 or 5, did you say anything to the effect that by demoting him he would become a better mechanic? A. No.

Q. Did you say anything to the effect that if Rogers didn't sign the employee's report there would be a lot of trouble for him? A. No.

Q. Did you say anything to the effect that if Rogers didn't sign the employee report there would be no way in hell he was ever going to get back to labor grade 7? A. No.

Q. Did you say anything to the effect that if Rogers did sign the employee report he would be reconsidered at a later date? A. No.

Q. To get his old job back. During the time that you were in this meeting, Mr. Robinson, did you ever hear Mr. Rogers ask for a steward? A. No.

Q. As an assistant foreman, had you ever given employee reports to other employees? A. Not this last time, no. As a foreman, yes. I

issue many employee reports.

Q. Approximately how many have you issued in your years as

[1808] a supervisor? A. Ten or less.

Q. Did you ever have an employee who refused to sign an employee report? A. Yes.

Q. What procedure did you follow on that case? A. Call another foreman and have him witness it in front of the employee.

* * * * *

[2021]

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

* * *

[2021]

DIRECT EXAMINATION

Q. (By Mr. McGuinn) Mr. Heim, would you give your full name for the record.

A. Herbert E. Heim, Jr.

Q. What is your address? A. 6 Sherwood Lane, West Simsbury, Connecticut.

Q. And by whom are you employed? A. By Pratt & Whitney Division of United Aircraft, East Hartford, Connecticut.

[2022] Q. How long have you been employed by Pratt & Whitney? A. Nineteen years.

Q. What is your current job? A. Semi production machine shop forman.

Q. What department is that, sir? A. Department 96.

Q. And what shift? A. First shift.

* * *

Q. Going back to let us say June of 1970, how many employees did you have under your direct supervision? A. Twenty-six or 27.

Q. Do you have an employee named Gary Raymond under your supervision?

A. Yes, I do.

Q. How long has that employee been under your supervision? A. Since 1968.

[2023] Q. I want to first direct your attention to the month of June, 1970, and ask you whether you recall an incident with Mr. Raymond regarding some cleaning tissues?

A. Yes, I do.

Q. Do you recall what date that incident took place? A. That was on June the 12th.

Q. Can you tell us what the conversation you had with Mr. Raymond on that day

was about that issue? A. It was in the morning and Raymond came to my desk and asked me to sign a requisition for some Kim-Wipes.

Q. What are Kim-Wipes? A. Kim-Wipes are a small square tissue used for the cleaning of glasses.

Q. What, if anything, did you say when Mr. Raymond asked you for Kim-Wipes?

A. I inquired as to why he wanted them.

Q. And what did he say? A. He said that the job he was running, the machine was throwing out a fine spray and it was getting over his glasses and he had to clean them quite frequently and it took considerable time to walk to the safety glass station to clean them.

Q. And after this explanation what, if anything, did you do? A. I signed the requisition.

[2024] Q. And after you signed the requisition did Mr. Raymond get the tissue?

A. Yes, he did.

Q. When did he get them? A. Right after I signed the requisition. He went over to the crib and received the box of tissues.

Q. And after Mr. Raymond received his box of tissues did you have any other request for tissues? A. Yes, I did.

Q. Would you relate that to us. A. Well, shortly afterwards another employee, Billy Stephenson, came down to my desk and asked me to sign a requisition for a box of Kim-Wipes.

Q. Let me ask you this, how shortly was it after you had the conversation with Mr. Raymond that you had the second conversation with Mr. Stephenson? A. Approximately ten minutes.

Q. And when Mr. Stephenson asked you for the Kim-Wipes, what was your response?

A. I inquired as to why he needed them.

Q. What, if anything, did he say? A. He said that his glasses were getting dirty from the job he was running and he needed them to clean his glasses. He also said that he needed them to wipe the sweat from his nose.

Q. And what did you do after he gave you that explanation? A. I told him that [2025] Gary Raymond had just received a box of Kim-Wipes and that he could take part of that box, that I did not intend to issue a requisition for a box of Kim-Wipes for every machine on the line.

Q. And what happened after that? A. Shortly after that Stephenson returned to his machine without taking any of the Kim-Wipes and I happened to notice an empty box that was on the shelf behind my desk. I picked up the empty box and I went to Raymond's machine and I took a dozen or so of the Kim-Wipes and put them in the box and went over and gave them to Mr. Stephenson.

Q. After you gave the Kim-Wipes to Mr. Stephenson, did you have any further discussion with either Mr. Stephenson or Mr. Raymond on that subject that day? A. Yes, I did.

Q. How much later in the day? A. Well, it was about five minutes or so after that I noticed that Stephenson was back over to Raymond's machine and they were carrying on a conversation.

Q. And what, if anything, did you do when you saw that conversation going on?

A. Well, I just watched for a minute or so and then I walked up towards Raymond's machine and Stephenson turned and returned to his own machine. And I continued on to Raymond's machine and asked him what the problem was. And they said, well, they were [2026] just discussing the amount of time it takes to get Kim-Wipes, and at that time I told Raymond that if he would spend as much time running the job as he worried about

getting Kim-Wipes, that he would do better.

And I went over to Mr. Stephenson's machine and told him the same thing.

Q. By the way, was this conversation taking place between the two employees on, working time or on lunch time or when? A. This was during working hours.

Q. After you made this comment to Mr. Raymond and Mr. Stephenson about spending more time working and less time about Kim-Wipes, what if anything did either of them say to you? A. Well, around 9:30 or so, Mr. Raymond came down to my desk --

Q. No. I was asking at that particular moment, right at the machine when you made the comment to them. Did they make any comment back to you, either of them? A. No, not that I can recall.

Q. All right. Now, during the same date did you have any further contact with this incident concerning the Kim-Wipes? A. Yes, I did.

Q. What happened? A. At approximately 9:30 Raymond came down to my desk and said that he wanted to have a steward.

[2027] Q. What did you say? A. I told him to return to his machine, to go to work, that I would take care of the matter.

Q. And what did you do after that? A. I summoned the steward.

Q. What was the name of the steward? A. John Misko.

Q. And did Mr. Misko come over to your department that same day? A. Yes, he did.

Q. And what happened when Mr. Misko came over to the department? A. He reported to my desk.

Q. And after he reported to your desk, what happened? A. I directed him to a table -- or the group supervisor's bench -- and I told him that I would get the employee and

I notified Gary Raymond that the steward was there to see him.

Q. And did Mr. Raymond and Mr. Misko thereafter have a conversation by themselves?

A. Yes, they did.

Q. About how long was that conversation? A. Approximately 30 minutes.

Q. After that conversation, what happened? A. Gary Raymond returned to work and Mr. Misko came and talked to me.

[2028] Q. And what was the substance of your conversation with Steward Misko?

A. Well, Misko said that Raymond had complained that I was picking on him and I was keeping a record of the amount of time he was spending away from his machine, that I was keeping a record of the amount of time he was spending up to the men's room.

Q. What, if anything, did you say to Steward Misko in answer to that? A. Well, I told Misko that I didn't keep a record of how much time Raymond spent up at the men's room or any other employee. I told him that I had spoken to him about engaging in conversations that day and that I had spoken to another employee, also.

Q. Was there anything further to this conversation? A. Misko said that he would take it under advisement and he would take his five days and that he would get back to me and if he didn't it would lapse.

Q. Did Steward Misko ever get back to you on this matter? A. No.

Q. To your knowledge, was a grievance ever filed in this matter? A. No.

* * *

[2029] Q. All right. Now, again directing your attention to the month of June, 1970, do you recall an incident of Mr. Raymond heading for the clock early? A. Yes, I do.

Q. And on what day in June do you recall that occurrence? A. That was June 25th.

Q. Tell us what happened on that day with relation to the incident I have mentioned.

A. Well, it was shortly before the lunch bell. I had turned from my desk to go out the aisle to take my position for the lunch time and I noticed that Gary Raymond and two or

three other employees had grouped up in the aisle leading down to the clock.

And I watched for a number of second and then I motioned them back to their machines. I waved my hand motioning them back to their machine and I had just finished doing this and the bell sounded and the people continued on their way, clocked out and went to lunch.

Q. After the lunch period, did you have any discussion with Mr. Raymond regarding this matter? A. Yes, I did.

[2030] Q. How did that come about? A. As I returned from lunch Gary Raymond was standing in the opening between the safety glass station and my desk cleaning his glasses.

MR. HARVEY: May we have where he was located again, Mr. Witness. I didn't get it.

THE WITNESS: There is like a small aisle that runs behind my desk and the group supervisor's desk. There is a safety glass station there.

Q. (By Mr. McGuinn) And what happened when you came to your desk? A. As I approached my desk he was standing there and I spoke to him. I told him not to leave his work area before the bell.

Q. And what, if anything, did Mr. Raymond say in response to that statement?

A. He told me that he was sick and tired of me being on his ass about being away from his work area.

Q. Have you ever spoken with any other operators about moving to the clock early in anticipation of the buzzer ringing? A. Yes, I have.

Q. Can you recall any specific employees under your supervision that you had occasion to talk to about that? A. Yes.

Q. Would you name them? A. Fred Walz, Paul Yanke, Benny Cwirka, William Anderlulich, and Lionel Labbe.

[2031] Q. Over what period of time have you spoken with these named individuals about this practice of leaving their machine early? A. It was in the couple of past weeks prior to this.

Q. Do you have any general policy with regard to reminding employees to stay at their work station until the buzzer actually rings? A. Yes. On Occasion I instruct the group supervisor to remind all employees that they are to stay at their work station until the bell.

Q. Did Mr. Raymond request a shop steward in connection with this incident? A. Yes, he did.

Q. Do you recall whether a shop steward was provided? A. Yes, he was.

* * *

[2041] Q. (By Mr. McGuinn) Now, going from September of 1970 to October of 1970, do you recall, Mr. Heim, an incident involving you and Mr. Raymond regarding Mr. Raymond's merit rating in October? A. Yes, I do.

Q. What date was that? A. October the 1st.

Q. And what was the first time during the day of October 1st, 1970, that this discussion started? A. It was early in the morning, about 9:00 o'clock. Gary Raymond came to me and asked if the new merit ratings were out yet. And I told him that I didn't know, that I would try to find out.

He then said that some people got increases. I said, "Department 96?" He didn't answer. I told him that I would try to find out if the new ratings were out and I told him to go back to work.

Q. And what was the next time that you had any contact with this matter during that day? A. It was later on then in the morning before lunch, about 11:00 o'clock. I went to Gary Raymond's work area. He wasn't there so I decided that I had some other business to attend to and that I could do that and get back to him after lunch.

[2042] Q. After lunch what happened? A. After lunch - - -

Q. By the way, what time is the luncheon period in your department? A. Our lunch period is from 11:15 to 11:45.

Q. So after lunch what happened? A. After lunch I went down to Gary Raymond and asked him to come to my desk that I wanted to talk to him.

Q. And on the way from his work area to your desk did you hear any comment by any other employee? A. Yes.

Q. By whom? A. As I was walking down the aisle with Gary Raymond we passed employee Lionel Labbe and he made the comment, "There goes your dinner". I don't know what he meant by this.

Q. And then you proceeded on to your desk? A. Yes.

Q. And what happened when you got to your desk? A. When I got down to my desk I had a pad of paper and I had Gary Raymond's merit rating -- his current merit rating -- on the pad of paper and I showed it to him.

Q. Was this pad of paper a company form or was it a blank piece of paper? A. It was a pink pad -- a small memo pad.

Q. Were the notations in handwriting or were they typed or printed or what?

[2043] A. They were handwritten in pencil.

Q. Whose handwriting? A. Mine.

Q. How had you gotten the figures put down on that paper? A. I called the personnel department.

Q. All right. What happened after you showed him the piece of paper on which you had this handwriting? A. I offered him a piece of paper so that he could copy down the rating and he said that he wanted the one that I had. And I said, "Well, here is a piece of paper. If you wish to have it you are welcome to copy it down."

Q. Did you give him any reason why you didn't want to give him the paper that you had? A. It has been my practice to keep these slips of paper.

MR. HARVEY: I object.

TRIAL EXAMINER: Overruled.

Q. (By Mr. McGuinn) Did he ultimately copy it down? A. Yes, he did.

Q. And what happened after he copied down the new rating? A. He asked me for his old rating.

Q. And what did you say to that? A. I told him that I didn't have it.

Q. And what did he say after that? A. He asked me what I was trying to hide.

[2044] Q. What did you say? A. Nothing.

MR. GORDON: Would you explain that.

Q. (By Mr. McGuinn) Did you say that you had nothing to hide or did you not respond to that question? A. I said, "I have nothing to hide."

Q. And after you said that what was the next conversation? A. He said if I had waited until after 2:00 o'clock he would have got a free dinner.

Q. Did you know what he meant at that time?

MR. HARVEY: Objection.

THE WITNESS: No, I did not.

TRIAL EXAMINER: The objection is overruled. Don't answer when an objection is made until I have ruled on it, if counsel objects to a question.

MR. MC GUINN: Wait until the Trial Examiner makes a ruling and then you may answer it or not answer it.

Q. (By Mr. McGuinn) And then after that comment did you have any further discussion with Mr. Raymond at that time? A. Yes, I did.

Q. What was the nature of that discussion? A. I proceeded to tell him about his merit rating.

Q. Did you discuss any particular aspect of it? A. He pointed to the first letter of the rating, which was "H", and he said, "What does that mean?"

[2045] Q. What is the first letter standing for -- what factor? A. This is the first factor which is accuracy.

Q. And what did you say when he asked you about that? A. I told him that that was an above standard rating in accuracy.

Q. What did he say? A. "How do I know this?"

Q. What did you respond? A. I told him that I just told him it was.

Q. And what happened after that? A. He asked me if he could see a rating card.

Q. And what did you tell him? A. I told him yes, but I didn't have one available.

Q. What did he say to that? A. He said, well, he would appreciate it if I could get one.

Q. Then what? A. I told him I would try.

Q. Was there anything else during that part of the conversation on October 1? A. He then returned to work.

Q. What was the next contact that you had with Mr. Gary Raymond on that day? A. It was around 1:30.

Q. What happened at 1:30? A. At 1:30 I went to his machine and asked him to come down to the desk and I told him that I had tried to get a rating card but I was unable [2046] to get it.

Q. And what did he say? A. He then requested a steward and said that he would represent himself and he asked me if I understood this and I said, "Yes".

Q. Is that all there was to that discussion at 1:30? A. Yes. He then returned to work.

Q. What was the next time you discussed this with Mr. Raymond? A. It was about 2:00 o'clock in the afternoon. He had come down to the water fountain and as he was going by my desk I told him to punch out on his union card, that I would talk to him.

Q. And did you have a talk with him at that time? A. He came to my desk and he immediately requested a grievance form.

* * *

[2048] Q. (By Mr. McGuinn) All right, Mr. Heim, we have got you up to your point when you were at your desk with Mr. Gary Raymond sometime shortly after 2:00 p.m. on October 1, 1970. I want to ask you who said what on that occasion. A. Would you repeat the question, please.

Q. When we got up to your desk at a little bit after 2:00 on October 1 of 1970 did you have a conversation with Mr. Raymond at that time? A. He had asked me for a grievance form.

Q. And what did you tell him? A. I gave it to him.

[2049] Q. And what happened after you gave it to him? A. I asked him if I could explain anything and I wished to discuss the rating with him and he told me that he would let me know when he wished to discuss the rating.

He then went over to the bench behind my desk.

Q. How far is the bench behind your desk? A. Three and a half or four feet.

Q. All right. He went over there and did what? A. He proceeded to write a grievance.

Q. And after that what happened? A. He came back to my desk and he had the

grievance in a folder and he said that I had refused to give him his old rating. And I said, "I didn't refuse. It is not available to me at this time". And at this point he said, "You are full of beans".

Q. And what did you say after he made that comment? A. I said to him, "I just want to make it clear that I did not refuse to give you the rating. It is not available to me."

Q. What did he say after you said that? A. He told me I was full of shit.

Q. What did you tell him after that? A. I told him that I didn't have to listen to this guff.

Q. What, if anything, did he say after that? A. He said that I was an ass.

[2050] Q. What transpired after that? A. I told him that he was to punch in and go back to work and our discussion was ended.

Q. What did he say when you said that? A. He refused to do so.

Q. Did he say anything? A. Yes.

Q. What? A. He said that he didn't have to do anything that I told him, that he was on union time.

Q. And what, if anything, happened after that? A. I told him that he was insubordinate and it was a direct order, to punch in and go back to work.

Q. At this point in the conversation, Mr. Heim, let me ask you, were you holding anything in your hand? A. I had a pencil in my hand.

Q. About what size was the pencil? A. About this size. (Indicating.)

Q. Was it a lead pencil?

TRIAL EXAMINER: An ordinary pencil?

THE WITNESS: Yes.

Q. (By Mr. McGuinn) Did the pencil have anything on it? A. Yes, a clip -- a

pencil clip.

Q. Was the clip similar to the clip that you have on the pencil you are holding? A. It was
[2051] round like this. The only thing, it had a little round flat button like on the end.

Q. At this point in the conversation, how were you holding your pencil? Would you
show it to the Trial Examiner. A. I was holding the pencil like this. (Indicating.)

Q. Where was your arm in relation to the desk? A. My arm was resting on the
edge of the desk like this. (Indicating.)

Q. At this point in the conversation how many feet away from you was Mr. Raymond
standing? A. About two feet.

MR. HARVEY: May I have the last answer read back, Mr. Examiner?

THE WITNESS: About two feet.

MR. HARVEY: Standing about two feet -- was that the answer?

TRIAL EXAMINER: Standing about two feet away from you?

THE WITNESS: Yes.

MR. HARVEY: Thank you.

Q. (By Mr. McGuinn) I will ask you again to look at Respondent's Exhibit No. 28
in evidence, Mr. Heim, and by looking at that exhibit could you tell us where Mr. Raymond
was standing at this particular time? A. He was standing right here. (Indicating.)

Q. When you say "right here", does that mean to your right? A. To my right.

[2052] That is correct.

MR. HARVEY: Indicate it on the photograph, please.

TRIAL EXAMINER: Right near the yardstick which has been put in the picture?

THE WITNESS: Yes.

MR. HARVEY: Thank you.

Q. (By Mr. McGuinn) Were you doing anything with the pencil that you had in your hand at this time?

MR. HARVEY: I object, Mr. Examiner. I think we are into a very crucial area and I think the witness should answer not direct questions, blow by blow, but what happened. I do not think this is a proper ---

TRIAL EXAMINER: Objection overruled. You may answer it.

THE WITNESS: I was holding a pencil in my hand like this and just pushing the clip back and forth, sliding it, and all of a sudden the pencil just flew out of my hand. I felt a breeze across my hand and the pencil landed on the floor to the right of me and to the rear.

Q. (By Mr. McGuinn) How did the pencil get struck out of your hand? A. Gary Raymond struck it out of my hand.

Q. Do you recall which hand he used in striking it out of your hand? A. No, I do not.

Q. How far did the pencil go after it was struck out of your hand? A. Five to six [2053] feet.

Q. Now, at this particular time, Mr. Heim, can you tell me approximately how far the pencil was from Mr. Gary Raymond's nose? A. Eighteen -- 20 inches.

Q. After the pencil was knocked out of your hand, what, if anything, was said?

TRIAL EXAMINER: Were you sitting at this time or standing?

THE WITNESS: I was sitting.

TRIAL EXAMINER: I think you had better repeat that question.

Q. (By Mr. McGuinn) After the pencil was knocked out of your hand, what happened after that? A. I was sitting at the desk.

Q. Was anything said after that?

A. I told him that he was insubordinate and that he was to punch in and return to work.

Q. And what, if anything, did Mr. Raymond say? A. He refused. He said he didn't have to do anything I told him to, he was on union time.

Q. What did you say then? A. I ordered him back to work again and he refused.

Q. And after that? A. He put the grievance on the desk and said that I had to accept it.

[2054] Q. What did you say? A. I refused at that time to accept the grievance.

Q. What happened next? A. He then said that it was a labor relations rule that I had to accept it.

Q. What happened after that? A. I then reached for the telephone and I called the personnel department.

* * *

Q. And who did you make a telephone call to? A. I talked to Mr. Cordone.

Q. Who is Mr. Cordone? A. He is a personnel advisor.

Q. And what was the substance of your conversation with the personnel advisor at that time? A. I told him briefly that Raymond had knocked a pencil from my hand and he was insubordinate. He refused to go back to work. And I told him that I refused to accept a grievance.

Q. What, if anything, were you told by the personnel advisor? A. I was told by the personnel advisor to go ahead and accept the grievance.

Q. Were you given any further instructions? A. And I told him that I was told that he was to return to work, that he was insubordinate and that he hadn't heard the end of this and

[2055] that I would get back to him later.

Q. During this telephone conversation, where was Mr. Raymond? A. He was standing next to the desk back where the yardstick is facing up the aisle in the department.

Q. And after your telephone conversation, did you have any further conversation with Mr. Raymond? A. Yes, I did.

Q. What was the nature of that conversation? A. I accepted the grievance and he then -- I accepted the grievance and then I told him to punch back in and report back to work, that he was insubordinate and that he hadn't heard the end of this and that I would get back to him on it. He then requested another grievance form.

Q. And what did you do? A. I refused the grievance form.

Q. And what happened then? A. He told me to make sure that I tell it like it is and to remember that I had refused him a grievance form.

Q. Was there anything else to that conversation? A. Yes. At that time he told me that I didn't know beans.

Q. Do you recall anything else about that conversation? A. No.

Q. During any point in this conversation, Mr. Heim, that you had with Mr. Raymond after 2:00 p.m. on October 1, 1970, did you ever shake a pencil in his face? A. No, He

[2056] did make a statement when I was talking with him and he said, "Don't point that pencil at me".

Q. Where was the pencil at that point when he made that statement? A. It was in my hand and I had my forearm on the edge of the desk.

Q. Did you ever pick your forearm off the edge of the desk and point it out at him?

A. No, I did not.

[2056]

CROSS-EXAMINATION

[2065] Q. (By Mr. Harvey) Mr. Witness, what caused you to go up to Mr. Raymond's machine while he was talking to Mr. Stephenson? A. Because they were there talking. I didn't know whether they had a problem or not.

Q. Did you ask them whether or not they had a problem? A. I asked them what the trouble was.

Q. And they told you they were talking about Wipers, isn't that true? A. Yes.

Q. And Wipers are part of their business, isn't it? A. They had their wipers. They received their wipers.

Q. But the point is, Wipers had to do with both of their functions, isn't that right, Mr. Witness? That is all I am getting at. A. They both use them.

* * *

[2073] Q. Had you made it a practice to make notes or note for your own record as to the amount of time employees spend away from their machines for your department?

A. I do not make notes on the amount of time a man goes upstairs.

Q. What do you mean by "upstairs"? A. They refer as "Upstairs" as up to the men's room.

Q. What about in places other than upstairs? Do you make notations on that? A. On occasion.

* * *

TRIAL EXAMINER: Have you ever kept records on Mr. Raymonds' absences from the work area other than going to the men's room?

THE WITNESS: I have had occasion to mark down time spent away from the machine -- yes.

TRIAL EXAMINER: By Mr. Raymond?

THE WITNESS: Yes.

[2074] Q. (By Mr. Harvey) Where do you mark it down, Mr. Heim? A. On a slip of paper.

Q. And what do you do with the slip of paper? A. I just put it in an envelope.

Q. And then what do you do with it? A. I just keep them.

* * *

[2075] Q. How many employees do you make notations on that you recall? You recall that you do on Gary Raymond. Now, who else do you? A. Wherever I feel there is a need.

Q. And during the period of June, 1970, can you tell me how many employees you were keeping a notation on or you felt the need to keep a notation on?

* * *

TRIAL EXAMINER: What employees did you keep notations on other than Raymond?

THE WITNESS: Are you talking on a specific day or what period of time?

TRIAL EXAMINER: During the month of June, 1970, around the time of these incidents.

THE WITNESS: I can't tell you how many. I really don't know.

TRIAL EXAMINER: Would it be more than five or six?

THE WITNESS: It is possible.

Q. (By Mr. Harvey) Would you name anyone besides Gary Raymond that you kept a

note on? A. For that specific ---

[2076] Q. During the month of June? A. For that specific period, I don't recall.

Q. Do you still have the notes that you kept on Gary Raymond in June, 1970?

A. Yes.

[2077] Q. (By Mr. Harvey) Now, you testified that one of the prerequisites that you had, Mr. Heim, as to whether or not you kept notes on employees was whether or not you felt there was a need to and I take it you felt there was a need to keep notes on Gary Raymond? A. By "need", I meant frequency of the times that these were happening, I mean --

Q. What was happening? A. Nothing in particular.

Q. Did you keep as part of your notes the amount of time that he spent away from his machine when he was operating on union business, too? A. No.

Q. Isn't it a fact that the personnel advisor told you to keep notes and keep an idea of about how much time Mr. Raymond was spending on union business? A. Mr. Raymond punches out a card when he goes out on union business and when he comes in.

Q. And on that occasion you did not make a note of the time when he went out and came back for your own personal purposes?

MR. MC GUINN: That has already been answered.

THE WITNESS: No.

TRIAL EXAMINER: The answer may stand.

Q. (By Mr. Harvey) Did you include as part of your notes the amount of time that Mr. Raymond spent with the shop steward as a grievor away from his machine? A. No.

[2078] The only time that I marked down is the amount of time spent on a conversation which is in my notes when I make notations. That's all.

Q. The conversation between who, sir? A. Between the grievant and the steward, the

steward and myself.

Q. And when Mr. Raymond was the grievant, did you make a note as to the amount of time he spent talking to the steward? A. Yes, but not a personal notation.

Q. Well, where did you note it down? A. I just make a notation of this and I notify the personnel department at this time. That's all.

Q. And you did report these times to the personnel advisor, right? A. Yes.

Q. Going back again to this incident of the 12th, did you make a note on that amount of time that Mr. Raymond had spent talking to Mr. Stephenson? A. No, I don't recall it.

Q. That was not one of the notes that you made that you recall? A. I don't remember. I told you just now that it was approximately ten minutes. I don't really remember. I gave you an approximate ---

[2079] Q. What I am getting at, Mr. Witness, is, did you consider that a verbal warning that you were giving Gary Raymond to get back to work? A. I was just calling it to their attention.

Q. You didn't consider it a verbal warning? A. No.

Q. Did you make a notation of it? A. I made -- I just -- I gave a write-up to the personnel department because the steward was called and everything and the notation is -- that's the notation.

[2080] Q. (By Mr. Harvey) Now, you testified on the 25th of June, Mr. Witness, that shortly before the luncheon bell you had taken what you described as your position for lunch time. Is that correct? A. Yes.

Q. Do you have a particular position that you maintain close to the lunch hour?

A. Not every day. I try to watch the clocking of employees at the lunch period, also at any period that they clock out.

Q. I see. This is to observe that they do not punch out early? A. Well, it's to see that there is no congestion and so forth.

Q. And on the day in question, June 25, you were in that position? A. I had left my desk and stepped out into the aisle and as I turned around I noticed this.

[2081] Q. How far were you from the time clock? A. Probably 20 feet -- 25 feet -- 20 feet.

Q. And how far were you from where the employees were coming out in the aisle that you have described for us? A. Probably 50 feet.

Q. Were you between these employees and the time clock that they had to punch out? A. No, I was not.

Q. Can you describe for me your position with respect to the employees and the time clock? A. I was facing the area, the employees were to my left, the clock was to my left. There were a double row of machines between the employees and myself. I was not in front of that aisle that the employees were in.

Q. Who was in that group of employees besides Mr. Raymond on June 25th? A. I believe Yanke was, Paul Yanke, and I believe Lionel Labbe.

Q. Anyone else? A. Not that I can recall.

Q. There was a group of three? A. There were two or three others besides Mr. Raymond.

Q. You don't recall their names? A. Just the ones that I have given you.

[2082] Q. Now, who was closest to the clock in the aisle as you observed them? A. Are you referring to the group?

Q. Yes, sir, of the group of five, I believe. A. Mr. Raymond.

Q. How far was he from the other group? A. Oh, I don't know. A couple of

feet, maybe.

Q. Is it your testimony, Mr. Witness, that while you were waving them back the lunch bell rang and as a group they then came forward and punched out? A. Yes, it is.

Q. And who was the first one who punched out that day? A. Out of the group, you mean?

Q. Yes, that you saw there. You observed them going out after the bell, did you not?

A. Yes.

Q. Who was the first one of that group to punch out? A. Gary Raymond, out of that group.

Q. And who was the first one to punch out of your department that day, do you know?

A. I do not know. We have two clocks.

Q. I mean on the clock that Mr. Raymond and the group of five that were getting ready to leave, do you recall who the first man was to punch out of that group? A. I told you, in the group that came down, Gary Raymond.

[2083] Q. I mean from the total lunch hour, not just that group. You testified that group was some 50 feet away from the time clock at the time that you noticed them, didn't you?

A. No, I did not.

Q. How far were they from the time clock? A. Probably 20 to 25.

Q. Did any employees punch out before they did? A. Not that I can recall.

* * *

Q. Now, after lunch when you had your discussion with Mr. Raymond, did you meet him by chance or did you make it a point to talk to him about this? A. It was by chance.

Q. And you told him what? A. I reminded him to stay at his work station until the bell.

Q. Did you consider this a verbal warning? A. No.

Q. Did you make a notation of this statement that you made to him? A. It is in
[2084] the write-up that went to the personnel department because of what transpired.

Q. So that you did make a note of that particular conversation that you had at that time? A. I did not make it at the time that I spoke to him. It was later on.

Q. How much later on? A. It was the same day.

Q. Did you talk to the other employees that were in that group of five that were out in the aisle? A. No, I did not.

Q. Now, Mr. Heim, it is not unusual for employees to edge toward the clock at around lunch time, is it, sir, in your department? A. This happens occasionally.

Q. Isn't it a fact that it happens most of the time as it gets closer to lunch hour they try to beat the clock out or beat the crowd getting to the clock? A. No. I constantly remind these employees to stay at their area.

Q. Gary Raymond, after you spoke to him after lunch, again requested a shop steward? A. Yes.

Q. And before you got him a shop steward did you call the personnel office? A. Yes,
[2085] I did.

Q. Did you talk to a personnel advisor? A. Yes.

Q. Who did you talk to that day? A. I don't recall who I talked to.

Q. Did Mr. Raymond, when he asked for a steward, tell you the reason that he wanted a steward? A. He said he had a complaint.

Q. Did he describe the complaint for you? A. No.

Q. Did you tell the personnel advisor what you estimated the complaint to be?

A. Yes.

Q. And what advice were you given? A. I was advised not to single out any individual.

Q. Pardon me? A. I was told not to single out any individual.

Q. You mean, in the future? A. I don't understand the question.

Q. I don't understand your answer, Mr. Witness.

MR. MC GUINN: I object to that.

Q. (By Mr. Harvey) Did you tell the personnel office that you had, in fact, singled one man out then? A. I had met Mr. Raymond by chance.

* * *

[2086] Q. (By Mr. Harvey) The question was, following your answer that the personnel office had told you not to single anyone out, had you told the personnel office that you had, in fact, singled Raymond out? A. I told them what happened. I met Mr. Raymond by chance. They asked me if I had spoken to anyone else. I said, no. I had a request for a steward. I stopped all of my other business to do this. I did not get to anyone else because of this.

Q. You stopped all of your business to do what, Mr. Heim? A. When Mr. Raymond requested a steward, I immediately called the personnel department and informed them what happened. At this point I had proceeded no further than my desk to where I had talked to Mr. Raymond.

Q. After your conversation with the personnel advisor did you talk to the other employees that had been in the group that had left that morning? A. No, I did not.

* * *

[2087] Q. (By Mr. Harvey) Now, turning to your testimony on June 16, 1970, relative to your request by the personnel department to see the amount of time that Raymond was

spending on grievances, who gave you that request? A. Personnel advisor.

* * *

Q. And what did he say to you, please? A. He just asked me to inquire to see if the amount of time being spent on grievance investigation was necessary.

Q. Did he tell you why? A. No.

[2088] Q. Did he tell you that the personnel office felt that it was unreasonable and excessive? A. No.

Q. What did you say? A. I told him that I would.

Q. Did you tell him that Mr. Raymond clocked out on any union business and that they had their own record? A. I don't follow your question.

Q. The same as your testimony here, doesn't Mr. Raymond when he operates as a union steward, clock out on the union time card? A. Yes, he does clock out on the union time card.

Q. Did you tell the personnel advisor, "You've got the records"? A. This is not what he asked me.

Q. This is what I wanted to get at, Mr. Heim. What was he looking for, over and above the amount of official time that he spent on union business? A. He asked me to inquire if the amount of time being spent investigating grievances was necessary.

* * *

[2089] Q. (By Mr. Harvey) Did you comply with this request? A. Yes.

Q. How? What did you do? A. When Mr. Raymond came down and was clocking out for a grievance I inquired of him to see if the amount of time that he spends investigating a grievance was necessary.

* * *

Q. Did the personnel advisor ask you to keep records -- closer records -- of any time that he spent talking? A. I wasn't asked to keep any record other than the time card.

Q. Were you asked to follow this up at all and to keep a running account with personnel relative to Mr. Raymond's activities? A. No, I was not.

* * *

[2090] Q. (By Mr. Harvey) You took the request that was made to you that morning by the personnel advisor as a request that you speak to Mr. Raymond and have him justify the time that he spent on grievances?

MR. MC GUINN: I object to that.

TRIAL EXAMINER: Overruled. Is that your interpretation of what the personnel advisor said? Did they ask you to keep a sufficient check on Mr. Raymond's time spent on union business to see if you felt that the time that he was taking was justified?

THE WITNESS: No.

TRIAL EXAMINER: What did they ask?

THE WITNESS: They asked me to inquire to see if the amount of time he was taking was necessary, that he take this much time.

TRIAL EXAMINER: Did he give you an explanation when he left of how he had spent that time?

THE WITNESS: Yes, he did.

* * *

[2091] TRIAL EXAMINER: What was actually said to you by personnel as nearly as you can recall?

THE WITNESS: As nearly as I can recall they requested me to check to see if the amount of time that he was spending investigating a grievance was necessary.

TRIAL EXAMINER: What did you do?

THE WITNESS: I asked Mr. Raymond if the amount of time he spends when he talks to a grievant, if this length of time was necessary.

TRIAL EXAMINER: In other words, this was a single conversation you had with him?

THE WITNESS: Yes.

* * *

[2092] TRIAL EXAMINER: After you spoke on this one occasion to Mr. Raymond about the time that he spent on grievances, did you consider this the end of anything you had to do in connection with the instruction given to you by personnel?

THE WITNESS: Yes.

TRIAL EXAMINER: And then you reported back to personnel?

THE WITNESS: Yes.

Q. (By Mr. Harvey) Did you report back to personnel that in your opinion Mr. Raymond was spending, excessive time, reasonable time or what time? A. I didn't say anything in this respect. I wasn't asked this.

TRIAL EXAMINER: What did you report back?

THE WITNESS: I just said that Mr. Raymond told me that the time he spends investigating the grievance was necessary.

Q. (By Mr. Harvey) Investigating what grievance, sir?

TRIAL EXAMINER: Grievances in general?

THE WITNESS: Yes, sir.

Q. (By Mr. Harvey) Did you report back on the 16th of June? A. Yes.

[2093] Q. And did you report back to the same personnel advisor? A. Yes.

Q. Did he give you any further instructions relative to Mr. Raymond? A. No, sir.

* * *

[2101] TRIAL EXAMINER: Had you, in fact, timed Mr. Perry shortly before the grievance was filed with respect to the timing?

THE WITNESS: Yes.

* * *

Q. (By Mr. Harvey) In your discussions that you had with Mr. Phil Worski, did you discuss with him the results of that timing and, if so, what was it?

TRIAL EXAMINER: No. The first part is all I am permitting. Did you discuss the results?

THE WITNESS: Yes, I did.

* * *

[2104] Q. Did you tell Gary Raymond after he was discussing the grievance with you that you had timed him or did you say to him that you had observed him?

MR. MC GUINN: On which occasion? He discussed it with Gary Raymond at least twice.

MR. HARVEY: On the 28th.

THE WITNESS: On the 28th, I said, "observed".

Q. (By Mr. Harvey) You didn't tell him that you had timed him then did you?

A. Our first conversation I said I observed and then I told him that as a foreman I had the right to time and check jobs.

* * *

[2122] Q. (By Mr. Harvey) Now, Mr. Witness, we are still on October 1st, and your various conversations with Raymond on that day and now I direct your attention to after

lunch. You went to Mr. Raymond and told him to punch out as a steward and come to your desk relative to his suggestion that he had a grievance that he wanted to discuss with you. Is that right? A. That's right.

Q. And during the course of this entire discussion that followed that you had with Mr. Raymond he was punched out on union business? A. Yes.

* * *

Q. Now, between the time that you had talked to Mr. Raymond in the morning and the time in the afternoon when you told him to come back, that he would represent himself, had you been in touch with the personnel office relative to the meeting that you were to [2123] have with Mr. Raymond that afternoon? A. Yes.

Q. Were you dealing with just one personnel advisor that day? A. I don't recall.

Q. Do you recall who it was that you were in touch with? A. No, I do not.

Q. Then, as I understand your testimony, he asked you for a form 1282. You gave it to him and then he went behind your desk to fill it out? A. That is correct, sir.

Q. And when he presented it to you, he told you, did he not, sir, that the basis of the grievance was that you would not supply him with his old merit rating? A. He didn't present the grievance when he came to the desk.

Q. What did he do? A. He had it with him in a folder.

Q. All right. You had a conversation with him? A. Yes.

Q. What did he say? Who started the conversation? A. He said that I had refused to give him his old rating.

Q. Did he explain to you why he felt the need for the old rating again at this time? A. I don't recall.

[2124] Q. Did you interrupt him and try to explain to him that it wasn't available? A.

I told him that it wasn't available to me.

Q. Did he ask you to please not interrupt him, that he wanted to finish the presentation of his statement before he discussed it any further? A. Yes, he did.

Q. Now, when he began to discuss this with you, was he angry? A. No.

Q. Were you angry? A. No.

Q. Did you have the pencil in your hand at that time? A. I believe so.

Q. Do you have that pencil that you had this morning with you? A. Yes.

Q. Would you take it and hold it in your hand the way that you were holding it and illustrate the way that you were holding it during the course of this conversation that you had with him? A. I was holding it like this. (Indicating.)

Q. And you were moving the clip back and forth? A. Yes, like this.

* * *

[2125] Q. And during the course of your discussion with Mr. Raymond your testimony was that the pencil was in your hand and your hand was flat on the desk? A. No. My desk top is on an angle and my forearm was resting on the edge of the desk.

Q. Did it ever move off the desk or any closer to Mr. Raymond during the course of your discussion? A. No.

Q. Your forearm was always in contact with the desk? Is that your testimony? A. I may have pulled it back, but I didn't -- when I had my hand up on the desk, my forearm was on the desk.

Q. You may have pulled it back but your recollection is that you never pushed it forward any further than it was -- two feet away from him. A. No.

[2126] Q. Was the pencil pointing at Mr. Raymond? A. The pencil was up and down.

Q. How do you mean? Again, illustrate for me. A. Vertical, like this. (Indicating.)

Q. You mean, you withdrew it into your palm and pushed it back up again? A. No. I just had it on the end. I was holding it like this.

Q. And it is your testimony that at no time did you shake that pencil at Mr. Raymond to emphasize the point that you were making? A. Whether I moved the pencil like this or not, I don't recall. (Indicating.)

* * *

Q. (By Mr. Harvey) Did Mr. Raymond explain to you or finish the explanation to you as to why he wanted the merit rating and why he was going to file this grievance before, as you testified, he knocked the pencil out of your hand? A. All I remember him saying is that I was refusing to give him the old rating.

[2127] Q. And you interrupted him and said, "I am not refusing. It is just not available." Is that right? A. I said, "Excuse me."

Q. Okay. Is it your recollection that Mr. Raymond began to raise his voice at what point? A. I told him that -- he said, "You don't know what you're saying". And he says, "According to the contract an employee is entitled to receive his rating upon request." And he says, "Are you refusing to give me my rating?" And I said, "No." And his voice started to raise.

Q. Was he yelling? A. Not like you were yelling to somebody about three block away -- no.

Q. Do you consider that he was hollering at you, Mr. Witness? A. He raised his voice to me -- yes.

Q. Did he display any signs of anger? A. He said I was full of beans.

Q. During the course of the discussion after this, did he begin to raise his voice louder and become more angry? A. He raised his voice a little bit more.

Q. And did you begin to raise your voice, too, Mr. Witness? A. No, I didn't.

Q. Is it your testimony that at no time during this conversation with Mr. Raymond did you raise your voice? A. I didn't holler. I may have raised my voice a little bit, but I wasn't hollering.

[2128] Q. Were you angry, Mr. Heim? A. No.

Q. Would you describe Raymond as shouting at you in the course of this conversation about this time? A. He was talking with a very raised voice. Like I say, it was far above a normal tone of voice. It wasn't shouting so loud, like I say, that it could be heard two blocks away, but it definitely could be heard in a quiet room here -- the full length of this room -- with no problem at all.

Q. Did he give you any indication that he was going to slap the pencil out of your hand? A. None whatsoever.

Q. Didn't he say to you, Mr. Witness, "don't point that pencil at me." A. He just said, "Don't point the pencil".

Q. And he said that just before he hit it? A. No.

Q. When did he say, "Don't point the pencil"? A. After he had said that I was full of beans.

Q. When did he say that you were full of beans, Mr. Witness? A. After he told me that the contract states that an employee should be provided with his rating upon request.

Q. And then without any sign he knocked the pencil out of your hand? A.

[2129] He said a few more things before that.

Q. Relative to the discussion that you were having that you testified to? A. He also said that I was full of shit.

Q. At the same time? A. Prior to the pencil. And then I told him that I didn't

have to listen to that kind of guff.

Q. At that particular point in time, Mr. Heim, had you decided that you had had enough and this man was insubordinate and he was going to go back to work? A. I told him that I didn't have to take any of that guff.

Q. Did you tell him to go back to work? A. Afterwards.

Q. No, at that time when you said, "I don't have to take any of this guff". Did you follow that by saying "Get back to work"? A. No.

Q. Go ahead. So your conversation continued to the point where he knocked the pencil out of your hand. Is that right, and at that particular point of time did you decide that you had had enough and did you order him back to work because of that incident? A. He said that I was full of shit and I told him that I didn't have to take any of that guff and then he said that I was an ass and then I ordered him back to work.

[2130] A. After he said that you were an ass? A. Yes.

Q. And was it after he said that you were an ass that he knocked the pencil out of your hand? A. Yes.

Q. And was it after he said that you were an ass that he said to you, "Don't point that pencil at me"? A. I believe it was before.

Q. And when he said that to you, did you put the pencil down, sir? A. I just held the pencil in my hand.

Q. You made no change in the pencil at all? A. No.

Q. Did you tell him that you weren't pointing it at him? A. I don't recall saying that.

Q. And Mr. Raymond then presented you with the filled out grievance form, did he not? A. After the pencil.

Q. Right. And you had ordered him back to work. Before that he hit the pencil out and then he presented you with the grievance form, didn't he? A. Yes.

Q. And said, "Please sign it"? A. He presented the grievance form. I told him that he was insubordinate and I ordered him to go back to work.

[2131] Q. And he asked you to sign the form, Mr. Witness? A. Yes.

Q. And you refused to sign it? A. Yes, I did.

Q. And he said to you that under the rules and regulations in the contract you have to sign it, isn't that true? A. He made the statement that it is a national labor rule that I had to accept the grievance.

Q. As a matter of fact, as a foreman you know, do you not, Mr. Heim, that until that grievance form is signed by the foreman it is not officially filed, isn't that right?

MR. MC GUINN: I object. It is argumentative.

TRIAL EXAMINER: No. He is asking the witness whether or not he knows the particular fact.

Q. (By Mr. Harvey) That is a fact, isn't it, Mr. Heim?

TRIAL EXAMINER: Must you sign the form before it becomes a grievance?

THE WITNESS: Yes.

Q. (By Mr. Harvey) And Mr. Raymond said to you, "I am only here to file a grievance. Sign the grievance form and I will go back to work, but I want you to sign it." Isn't that what he said to you? A. I didn't recall him saying that he would go back to work if I signed it.

* * *

[2132] Q. Was the idea to call personnel your own? A. I picked up the phone and I decided to call personnel.

Q. On what basis did you decide to call personnel? A. Because he was insubordinate.

Q. And did you call personnel to find out whether or not, in fact, you had to sign that form before he had to go back to work? Is that one of the reasons, sir? A. Before I

called personnel he said --

Q. Please, just my question. Is one of the reasons that you called personnel to find out whether or not Raymond was right that you had to sign that form before he had to go back to work? A. I called personnel because he refused to return to work when I asked him to.

Q. And did you ask personnel whether or not you were obligated to sign that form?

A. I told personnel at that time that I refused to sign the form.

Q. And did you ask them whether or not you had to? A. They told me to go ahead and accept it.

* * *

[2133] Q. And after you received the word from personnel -- by the way -- who did you speak to at the personnel department when you called this time? A. I believe it was Mr. Cordone.

Q. Did he also tell you to tell Mr. Raymond to go back to work, to sign the thing,

[2134] that Mr. Raymond would hear more about this matter later and that it was not closed? A. He told me to accept the grievance.

Q. Did he tell you to make that statement to Mr. Raymond? A. And he told me to tell him that he was insubordinate again, to go back to work, and that he hadn't heard the end of this, that I will be back to him.

Q. And that is what you told Mr. Raymond, was it not? A. Yes, I did.

Q. And then you signed the grievance that Mr. Raymond was offering you? A. I accepted the grievance.

Q. And it was at that time that he asked you for another grievance form. A. Yes.

Q. And you refused? A. Yes.

Q. Did you give Mr. Raymond the reason why you refused? A. Because he was insubordinate.

Q. Is that what you said to him? A. Yes.

Q. Did you tell him again to go back to work? A. Yes.

Q. And at this time he went back to work, didn't he? A. Yes, he did.

[2135] Q. And after Mr. Raymond went back to work you called personnel again, did you not? A. Yes.

Q. Did you talk to the same personnel advisor? A. Yes.

Q. What did he tell you and what did you say to him at this time? A. I just told him -- I related back to him that I had told Mr. Raymond that he was insubordinate and that he had to return to work, that he hadn't heard the end of this and that I would be back to him. And I told him that I refused to give him another grievance form. And I told him that he had clocked in and returned to work.

Q. By "clocked in", you mean he clocked off the union card and back on to the employee card? A. Yes.

Q. And what did the personnel advisor tell you at that time? A. He told me -- well, it was late in the day and I brought the grievance form over to him.

Q. You brought it over to him? A. Yes.

Q. Did you talk to the same man at the personnel department that you had on the telephone? A. Yes.

Q. Did you institute disciplinary proceedings at that time or recommend them to the [2136] people that you spoke to? A. No, I didn't.

Q. Did they say they would investigate the matter? A. They said they would look into it.

Q. And Mr. Raymond was, in fact, disciplined for this incident, was he not, Mr. Heim?
A. Yes.

* * *

[2137] Q. (By Mr. Harvey) Mr. Witness, you were consulted on this, though, as to the insubordination? A. Yes.

Q. And you told them that, yes, in fact, he was insubordinate, did you not? A. Yes, I did.

* * *

[2143] Q. (By Mr. Gordon) Directing your attention to September 4, 1970, which involves the Perry grievance, do you recall that day? A. Yes.

Q. On September 4 you went over to Gary Raymond and instructed him to punch out and come over to your desk. Is that correct? A. Would you please repeat the question.

Q. You went over to Gary Raymond and instructed him to punch out and report to your desk? A. Yes, I did.

Q. And then you made you disposition of the Perry grievance, right? A. Yes, I did.

Q. And after you had made the disposition, you proceeded to give Mr. Raymond a little lecture on your authority, correct?

MR. MC GUINN: I object.

TRIAL EXAMINER: Sustained.

Q. (By Mr. Gordon) Did you make any statements to Mr. Raymond after you made the disposition? A. Yes, I did.

[2144] Q. Didn't you tell him that you had a few thing that you wanted to say to him?

A. Yes, I did.

Q. And that you wanted to say them without interruption? A. Yes.

Q. And then you told him, in effect, that you were the foreman, you were going to run the department as you saw fit, you were going to run the line, and that how you did it was none of his business, right, in effect? A. Yes.

Q. Now, Mr. Witness, what prompted you to make those statements? You had already made your disposition of the grievance, right? You had already denied it before you made

the statements? A. Yes.

Q. And then you proceeded to make the statements. Why did you go on to make those statements, Mr. Witness, to Mr. Raymond? A. On my first meeting with Mr. Raymond he made some remarks as to not being able to take my word, that I had lied to him in the past.

Q. Did it have anything to do with his saying to you at the first conversation that you had been sneaky or underhanded in this timing of the employee Perry? A. No.

[2145] Q. Nothing to do with that? A. Well, I mean, it was my job, I told him, as a foreman to check jobs like this.

Q. And he had told you in the first conversation that Perry felt that you had been sneaky and underhanded in doing this without Perry's knowledge, right? A. Yes.

Q. And you understood that Mr. Raymond was merely conveying -- I think the word "conveying" was your word -- Mr. Perry's thoughts and words to you? A. Yes, at that point -- yes.

Q. Mr. Perry had told Mr. Raymond that he, Mr. Perry, thought that you had been sneaky and underhanded? A. Yes.

Q. But you saw fit to make all these statements about who had the authority to run the department and how you intended to exercise that authority to Mr. Raymond? A. Mr. Raymond made the statement to me.

Q. Sure, but he was just saying what Mr. Perry thought, right? A. I wasn't referring to that statement, the one that you just mentioned. I told you earlier that Mr. Raymond told me, "I suppose it wouldn't do any good to ask you not to do this any more, that you have lied to me in the past".

Q. But in the statements that you made to Mr. Raymond, didn't you talk to him about

[2146] your right to time employees without their knowledge? A. Yes.

Q. Sure you did. And that timing employees without their knowledge and the characterization of that conduct as sneaky and underhanded was part of Mr. Raymond's discussion with you the first time, right? A. Yes.

Q. Did you think Mr. Raymond was questioning your right to time employees without their knowledge? A. I really don't know there about that. I mean, he was conveying Mr. Perry's feelings, as far as I was concerned. He conveyed to me Mr. Perry's feelings.

* * *

[2175] ROBERT CARL KRIEGER

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. McGuinn) Mr. Krieger, would you state your full name? A. Robert Carl Krieger.

Q. What is your address? A. 115 Cemetery Road, Vernon, Connecticut.

Q. By whom are you employed? A. Pratt & Whitney Aircraft.

Q. How long have you been employed by the company? A. Approximately five years.

Q. What is your current job? A. Investigator.

* * *

[2176] Q. Do you recall in the early part of October 1970 an investigation between Gary Raymond and Foreman Heim? A. Yes.

Q. Did you actually conduct an interview with employee Raymond during the course of this investigation? A. I did.

Q. Can you tell us the date you interviewed Mr. Raymond? A. October 5th, 1970.

Q. At what time did Mr. Raymond come to your department on October 5th? A.

At approximately 8:00 a.m.

Q. How long did this interview last? A. Until 11:55 a.m.

Q. Was any other investigator present during the time you were interviewing Mr.

Raymond? A. Yes, sir.

Q. Who was that? A. Dainey Johnson.

Q. Was anyone else present? A. No, sir.

Q. Mr. Krieger, were you in the room at all times when you were interviewing Mr.

[2177] Raymond? A. No, sir.

Q. What portion or portions of the time were you not in the room? A. I went out for a short period of time with Mr. Raymond to the candy machine, and either coming or going to the candy machine Mr. Raymond stopped and got a drink of water.

Q. Did you leave the room at any other time during that interview? A. No, sir.

Q. Was Mr. Johnson in the room at all times during the interview with Mr. Raymond?

A. No, sir.

Q. During what portions of the time was he out of the room? A. I would like to retract one of these other statements I made. Early in the interview, in fact right in the beginning of the interview, both Dainey Johnson and I stepped out of the room for approximately five minutes.

Q. What was the reason for your stepping out of the room at that time? A. Mr. Raymond wanted to gather his thoughts.

Q. Apart from that time and the time you went to get candy, you were in the room at all times? A. Yes, sir.

Q. How about Mr. Johnson? A. I recall him leaving the room on one occasion for [2178] ten or fifteen minutes.

Q. During this interview you had with Mr. Raymond, did Mr. Raymond at any time ask you for a shop steward? A. No, sir.

Q. Who asked questions of Mr. Raymond? A. Both Investigator Johnson and I.

Q. During the time you were asking questions did you take notes about what was being said? A. Yes, sir.

Q. At the conclusion of the questions you put to Mr. Raymond how was Mr. Raymond's statement reduced to written form? A. It was dictated to a stenographer.

Q. Can you tell me, Mr. Krieger, at approximately what time during this interview you started to dictate to the stenographer? A. Approximately 9:45.

Q. By the way, who dictated to this stenographer? A. I did.

Q. At what point in the interview was the dictation to the stenographer completed?

A. About 11:00 a.m.

MR. MC GUINN: At this time, your Honor, I would like to put in front of the witness General Counsel Exhibit 57(a), specifically that portion of 57(a) that contains the [2179] Internal Security Statement given by Mr. Gary Raymond. I would like to have this in front of the witness.

MR. GORDON: I will object, Mr. Examiner. If the witness is going to be asked a question why can't he be asked a question about the matter without the document in front of him, at least until his recollection is exhausted?

TRIAL EXAMINER: Are you planning to just ask a general statement?

MR. MC GUINN: I am not going to take the witness through questions and answers of the interview he had with Mr. Raymond. I was going to point out certain

deletions that were made at Mr. Raymond's request and matters of that kind.

TRIAL EXAMINER: You may proceed.

MR. GORDON: I think that is somewhat leading. Cannot the witness be asked if there were deletions and what they were before he is shown?

TRIAL EXAMINER: I hardly think it necessary.

Q. (By Mr. McGuinn) What length of time was involved in the dictation of the statement to the stenographer? A. Approximately an hour and fifteen minutes.

Q. Now with regard to the length of the statement itself, was that a normal time that it took to dictate a statement of that length, or was it longer or shorter? A. It was longer.

[2180] Q. Can you give me any reasons why this statement took longer than usual to dictate? A. During dictation Mr. Raymond on many occasions changed the sequence of events as they took place, he changed the substance of certain sentences, and added to or deleted from the notes I had previously taken.

Q. After the statement was dictated what next happened? A. The stenographer left the room to type it.

Q. How long did it take her to type up that statement from your dictation? A. Approximately 35 minutes.

Q. During the time she was typing this up was there any conversation between you and Mr. Johnson and Mr. Raymond? A. Yes, sir.

Q. What was the nature of that conversation? A. Just general talk about subjects were not relevant to the case.

Q. The stenographer ultimately brought the typed statement back? A. Yes.

Q. What happened next, after she brought the statement back? A. I told Mr. Raymond I would read the statement to him out loud and if there were any corrections he

wanted in the statement to stop me while I was reading the statement and I would correct these mistakes on the spot.

[2181] Q. Did you proceed to read the statement? A. Yes, I read the statement to him.

Q. While you were reading the statement or just after, did Mr. Raymond request any changes be made? A. Yes, sir.

Q. I ask you to look at General Counsel Exhibit 57(a) and see if you can point out the changes that were made at Mr. Raymond's request?

MR. GORDON: Objection. I believe the document speaks for itself.

MR. MC GUINN: The document does not speak for itself because there are strike outs and initials. The question is whether the investigators themselves did the striking out and asked Mr. Raymond to initial it or whether Mr. Raymond requested the changes and they were acceded to and he initialled it.

MR. GORDON: Why do you not ask that question?

MR. HARVEY: I object to this point, I think the proper question is just to explain the cross outs.

TRIAL EXAMINER: Why do you not explain any changes that appear on the document?

THE WITNESS: During the reading of the statement several changes were made. Do you want me to go through each change?

MR. MC GUINN: Yes.

MR. GORDON: I object to that. The document shows that there are cross outs [2182] and initials in the margins. We do not need him to take us through every one of these cross outs.

MR. MC GUINN: Perhaps one general question would help.

Q. (By Mr. McGuinn) Were each of the cross outs involved in General Counsel Exhibit 57(a) cross outs requested by Mr. Raymond? A. Yes, sir.

Q. Did Mr. Raymond make any request for changes in the statement that you did not incorporate in the statement? A. No, sir.

Q. After you read the statement to Mr. Raymond what did you do? A. I gave the statement to Mr. Raymond to review.

Q. And after that process what happened? A. We asked Mr. Raymond to place his initials wherever a correction had been made at his request and then asked him to sign the statement, which he did.

Q. I want to refer you to the first paragraph of this statement which appears in General Counsel 57(a) stating that this is a voluntary statement made of his own free will and without fear, threats, or promises of favor. I want to ask you whether at any point in the interview Mr. Raymond objected to that portion of the statement? A. No, sir.

Q. Did either you or Mr. Johnson say anything to the effect that you could not take [2183] out that opening section of the statement? A. No, sir.

Q. After Mr. Raymond signed the statement, what happened then? A. Mr. Raymond got up to leave. It was beyond his lunch hour so we explained to Mr. Raymond that when he got back to his department to clock out and take his full allotted lunch hour. At that point he shook our hands, said he appreciated us being so cooperative and he departed from the office.

Q. After he signed the statement did you have any discussion with Mr. Raymond regarding the company rule book? A. No, sir.

Q. Did you have any discussion with him about the company rule book during the

interview? A. No, sir.

Q. Was there any discussion during the interview about insubordination or failure to follow the rules regarding orderly conduct? A. This was discussed during the final phase of the dictation of the statement.

Q. Not during the question and answer period, but after that? A. Not after we got the contents of the statement.

Q. Let me ask you, was there any discussion of the company rules at any point during the period from 8:00 a.m. until 11:55? A. Yes, sir.

[2184] Q. Can you tell us the nature of that discussion? A. We discussed with Mr. Raymond the allegations which included insubordination and undesirable conduct?

Q. What did you say about those rules? A. We asked him if he was aware of the Golden Rule Book. He said he was.

Q. Did he say anything else? A. He said he was as aware of the rule book as he was about the union contract.

MR. GORDON: When was this -- during what particular aspect of the interview did this take place?

Q. (By Mr. McGuinn) Can you tell us when in the entire period from 8:00 to 11:55 this particular conversation took place? A. I would say this would be about 10:50 a.m., finalizing the dictation of the statement to the stenographer.

Q. With reference to General Counsel Exhibit 57(a) can you point out the portion of the statement with that particular topic of conversation? A. Yes, that would be on page 3 of the statement, paragraph 3.

Q. After Mr. Raymond signed the statement you or Mr. Johnson, or both of you, did you change your demeanor in any way toward Mr. Raymond?

[2185] MR. HARVEY: Objection.

TRIAL EXAMINER: Overruled. You may answer.

THE WITNESS: No, I did not, sir.

Q. (By Mr. McGuinn) Did you at that time in any way become rough or abusive toward him?

MR. HARVEY: Objection.

TRIAL EXAMINER: Overruled.

THE WITNESS: No, sir.

Q. (By Mr. McGuinn) Again in connection with the investigation carried on in the Raymond-Heim matter, did you have an occasion to interview an employee named Labbe?

A. Yes.

Q. On what date did that interview take place? A. That was October 2nd, 1970.

Q. When did Mr. Labbe first come down to Internal Security? A. At approximately 2:00 p.m.

Q. What happened after Mr. Labbe arrived? A. I introduced myself to Mr. Labbe and I told him the reason for him being called down.

Q. What did you tell him was the reason for his being called down? A. In relationship to an incident that had occurred on October 1st between Foreman Heim and Gary Raymond, and I asked him if he was aware of what had occurred and had he witnessed any of this.

[2186] Q. What happened after you said that? A. Mr. Labbe requested a witness, namely a union steward.

Q. What was your response? A. I asked Mr. Labbe to sit out in the waiting room.

Q. What did you do then? A. I informed my supervision, Mr. Connolly, of the

incident of what had occurred between Labbe and myself.

Q. What happened then? A. I then contacted the personnel manager's office, the personnel advisor, Denny Shea.

Q. What did you say to Mr. Shea? A. I informed Mr. Shea that Mr. Labbe had requested a union steward.

Q. What did Mr. Shea say? A. Mr. Shea stated he would get back to me.

Q. What happened then? A. A few minutes later Mr. Shea called me and told me to send Mr. Labbe back to his department.

Q. What did you do after that telephone call? A. I informed Mr. Connolly of the call.

Q. And after that? A. Mr. Connolly asked me to once again ask Mr. Labbe about the incident, in reference to making sure Mr. Labbe was completely clear on what we were asking.

Q. What did you say then to Mr. Labbe? A. Mr. Connolly suggested I take Mr. [2187] Johnson with me. We both went to the waiting room. I again reiterated the question to Mr. Labbe.

Q. What question? A. The question as to whether he was a witness to any of the incidents that took place between Gary Raymond and Foreman Heim on October 1, 1970.

Q. What did Mr. Labbe say? A. Mr. Labbe stated unless he was represented by a union steward he would not answer any questions.

Q. What happened then? A. Mr. Labbe went back to his department.

Q. Did you see Mr. Labbe later that day? A. Yes, sir.

Q. Approximately what time? A. Approximately 3:10 p.m.

Q. In the interim period had you had any conversation with anyone concerning Labbe's

going back to his department or refusing to answer any questions without a union steward?

A. About 3:00 p.m. I received a call from personnel advisor Shea and was informed that Mr. Labbe would be coming down to our office for an interview.

Q. It was ten minutes after that that Mr. Labbe came? A. Yes, approximately that.

Q. After Mr. Labbe came down to your office what happened? A. He came into the [2188] office and once again we went over the basic situation and informed him of the reason for him being called down was with reference to the situation involving Foreman Heim and Gary Raymond.

Q. How long did this interview last? A. About 40 or 45 minutes.

Q. Did you take a statement from Mr. Labbe? A. Yes.

Q. How was that statement reduced to written form? A. I hand wrote the statement.

Q. What portion of the time that this interview that lasted for 45 minutes was spent in actually physically writing out the statement in long hand? A. Approximately 20 minutes.

Q. After you wrote out the statement in long hand, what did you next do? A. I called in Investigator Benton from our office as a witness to the reading of the statement.

Q. What did you do after that? A. I then informed Labbe that during the reading of the complete statement if there were any corrections on the statement that he would like made, that I would stop and immediately make the corrections.

Q. When you read back the statement did Mr. Labbe have any corrections? A. I [2189] believe there were a couple of corrections.

Q. I refer you to General Counsel Exhibit 57, the statement of Lionel Labbe dated October 2 and I will ask you to review that to see if there were any corrections on the statement after you and Mr. Labbe read it? A. Yes, there were two strike overs which Mr.

Labbe mentioned.

Q. I want to refer you to the first page of that exhibit and the first paragraph of the statement referring to the fact that this was a voluntary statement given of his own free will and accord and without fear, threat, or promise of favor. I ask you whether Mr. Labbe commented or objected to that statement? A. No, sir.

* * *

[2189]

CROSS EXAMINATION

* * *

[2206] Q. (By Mr. Harvey) Who assigned you to this case? A. Mr. Tom Connolly, my supervisor.

Q. When were you assigned to it?

TRIAL EXAMINER: I am going to cut you off on this. I think it is very far removed from anything material to the issue. He was assigned.

* * *

[2207] TRIAL EXAMINER: All right. What were your instructions?

THE WITNESS: Mr. Connolly called me into his office. He told me a situation had occurred between a foreman and an employee, Foreman Heim and Gary Raymond. He explained the situation in generalities.

TRIAL EXAMINER: You were told there was difficulty between the two men and you should find out what the trouble was?

THE WITNESS: Basically, that is it, yes.

TRIAL EXAMINER: What else are you going to ask on this?

Q. (By Mr. Harvey) Did he assign Mr. Johnson and Mr. Benton to investigate the case - were they present when you received your instructions? A. When I was assigned I

believe Mr. Benton was in the process of interviewing Mr. Heim.

Q. Were those the precise instructions that you just gave?

MR. MCGUINN: I object.

TRIAL EXAMINER: Sustained.

Q. (By Mr. Harvey) The time you interviewed Gary Raymond, which was October 5 I believe you testified, did you have the affidavits or had you read the affidavits of all the [2208] other witnesses that were interviewed on October 2nd? Did you have them before you? A. Not before me.

Q. Had you read them? A. I had reviewed every statement we had up to that point, yes.

Q. Mr. Raymond was the last witness you were to interview, is that right? A. I believe so.

Q. Did you tell Mr. Raymond what the purpose was of his being called down on October 5th? A. Yes.

Q. Did you tell him you had interviewed other witnesses? A. I do not believe so.

Q. Did you explain to him that your investigation would be objective and you would not make a recommendation on discipline? A. No, sir.

Q. You testified earlier in the interview you had stepped out of the room for about five minutes, with I believe Mr. Johnson, in order that Mr. Raymond could collect his thoughts? A. Yes.

Q. What led you to step out of the room? What led you to the conclusion that he needed to collect his thoughts? Did he ask you? A. Yes.

[2209] Q. Would you describe the incident, the circumstances? A. We started into the discussion of the incident and what had occurred. Mr. Raymond stated he would like

a few minutes to gather his thoughts and collect his thoughts in reference to the incident -- what took place.

Q. Had you asked any substantive questions as to the incident? A. Some questions were asked, yes.

Q. After the start of the interview -- how long after the start of the interview was it that you went to the candy machine with Raymond? A. I do not remember.

Q. Did you get some candy with him? A. Yes, sir.

Q. As I understand your testimony, Mr. Witness, you interviewed Mr. Raymond totally and took your own notes as to the results of that interview concerning Heim and himself, is that right? A. Correct.

Q. Then you reduced these notes in dictation form to a secretary? A. Correct.

Q. Was Mr. Raymond present when you were dictating to the secretary? A. Yes.

[2210] Q. Did he make any corrections as you were dictating -- say for example, "No, that is not what I meant" as you were dictating? A. Yes, he did.

Q. Approximately how many changes did he make in the statement during the course of your dictation? A. Many, many times.

* * *

[2212] Q. I notice, Mr. Witness, all of the statements contained in the file, except for Gary Raymond's, as far as I can see were taken on October 2, 1970. Then Mr. Raymond's followed on October 5th. A. Yes.

Q. After October 2nd -- let us say October 3rd or 4th, did you get together with the other investigators and determine what you considered to be the facts of the case as to what the investigation had revealed at that time?

MR. MCGUINN: I object to that.

TRIAL EXAMINER: Sustained.

Q. (By Mr. Harvey) As the investigation proceeded, for example after October 2nd, did you report the investigation to personnel or anyone from management as it was developing?

MR. MCGUINN: I object to that.

TRIAL EXAMINER: Sustained.

[2213] Q. (By Mr. Harvey) Why is it you waited until October 5th to interview Mr. Raymond?

MR. MCGUINN: I object.

TRIAL EXAMINER: Sustained.

MR. HARVEY: I just cannot understand your rulings.

TRIAL EXAMINER: I see nothing you are pointing to that would be unusual or irregular in the procedures.

MR. GORDON: It does not strike the Examiner as being unusual that Mr. Raymond was saved for last?

TRIAL EXAMINER: No, it does not.

MR. GORDON: And that Mr. Heim went first?

TRIAL EXAMINER: The method of investigation does not strike me as indicative of an improper method of investigating, anything in itself, that is significant. The case can obviously be investigated in several ways and I do not see anything particularly wrong in the company gathering the information in the way it thinks best.

MR. HARVEY: You just made a ruling in the case, because we contend it is an excessive investigation. That is why I want to go into it — the timing, the nature, the number of witnesses.

TRIAL EXAMINER: That is something else again. I am thinking about the questions you have asked. I see nothing wrong in the company asking its foreman and other

employees first and then the grievant last.

[2214] Q. (By Mr. Harvey) Did you talk to any other witnesses, other than the ones you have statements from? A. I do not believe so.

TRIAL EXAMINER: This is a complete investigative file? Any employee you interviewed with respect to this incident you took a statement from?

THE WITNESS: Yes, sir, except in one case here. In the case of Edmund Plass. He stated he was not in the area and there was no statement taken from him. This is mentioned here.

TRIAL EXAMINER: But this file contains all interviews?

THE WITNESS: Yes, but I could not recall if I had talked to Plass.

Q. (By Mr. Harvey) Did you include in this or take statements from the general foreman and discuss the case with the general foreman in the course of your investigation?

MR. MCGUINN: I object.

TRIAL EXAMINER: Is the general foreman's statement in the file?

MR. HARVEY: I think not.

TRIAL EXAMINER: You may answer.

THE WITNESS: No, sir, would be my answer.

Q. (By Mr. Harvey) Would you describe for us your conversation with Mr. Raymond relative to the insubordination, and as you put it, undesirable conduct? A. We asked Mr. Raymond if he was aware of the Rule Book, The Golden Rule Book, we called it. He said [2215] he was. We asked him in particular about two general rules namely, one in reference to insubordination and the other in reference to undesirable conduct.

We spoke to him about these two in particular.

Q. Did you tell him that it had been alleged by Mr. Heim, and this was an investigation,

that he had engaged in undesirable conduct, and insubordination, and that was the reason he was there? A. When Mr. Raymond first came in I informed him of the allegations that had been placed against him.

Q. Where did you receive those allegations? Were they in writing? A. Yes.

Q. Who gave you that written statement of allegations against him? A. Foreman Heim.

Q. In the course of his statement? A. Yes.

Q. After you interviewed Mr. Raymond in connection with the investigation on the 5th, did you find any conflicts between Mr. Raymond's version and Mr. Heim's version?

MR. MCGUINN: I object.

TRIAL EXAMINER: Sustained.

Q. (By Mr. Harvey) Did you make any attempt to resolve any conflict in testimony [2216] between Mr. Heim's version and Mr. Raymond's version?

MR. MCGUINN: Objection.

MR. GORDON: I think that is a relevant question.

TRIAL EXAMINER: The statements of Mr. Heim and Mr. Raymond are in evidence.

MR. HARVEY: I asked him after the 5th of October if he found any and if so did he try to resolve those. He had not talked to Mr. Raymond until the 5th of October.

TRIAL EXAMINER: Then he had two statements and he drew certain conclusions.

MR. HARVEY: My question to him was whether or not he had made any attempt to resolve the conflicts in the testimony after they took the statement of Raymond.

TRIAL EXAMINER: You may answer.

THE WITNESS: You mean in dictating the case itself, in the synopsis?

Q. (By Mr. Harvey) As an investigator you have seven years or so of investigatory experience --

MR. MCGUINN: Let us not have any brow beating.

TRIAL EXAMINER: What is the question, Mr. Harvey?

Q. (By Mr. Harvey) The question is — after you took Mr. Raymond's statement did you make any attempt as the investigator in the case to resolve the differences in the testimony that you had received relative to the incident on the 1st of October?

[2217] MR. MCGUINN: I still want the record to reflect my objection to that question.

TRIAL EXAMINER: The witness may answer. The objection is overruled.

THE WITNESS: I dictated the case from the statements I had in front of me.

Q. (By Mr. Harvey) Did you go back and talk to any other witnesses? A. No, sir.

Q. Did you go back and talk to Mr. Heim?

MR. MCGUINN: I object.

TRIAL EXAMINER: I will sustain that objection.

MR. HARVEY: Nothing further.

Q. (By Mr. Gordon) Does the synopsis reflect all the resolutions of conflict you made?

TRIAL EXAMINER: You need not answer that.

MR. MCGUINN: I object to that.

TRIAL EXAMINER: Sustained.

MR. GORDON: I am asking him what he left out, if anything.

TRIAL EXAMINER: From the synopsis?

MR. GORDON: Yes.

TRIAL EXAMINER: You can see what he left out from the other material, if anything.

[2218] Q. (By Mr. Gordon) Is it your responsibility to resolve conflicts between the different individuals from whom you take statements?

MR. MCGUINN: Object.

TRIAL EXAMINER: Sustained.

MR. GORDON: Mr. Examiner, we are trying to pinpoint where the responsibility lies with respect to the company's investigative process and how much of that responsibility lies with this witness.

TRIAL EXAMINER: He prepares a report which has apparently resulted in an action which indicates the company certainly relied to a material extent on his report.

Now the question as to whether the report itself is an accurate reflection of the investigation as it appears in the investigative documents is something we can determine.

MR. GORDON: At some point in this proceeding I would like a company witness certain questions about how they resolve evidence in this case on cross examination in an attempt to prove to you that those resolutions were so inherently incredible that they themselves reflect discriminatory intent. Now I do not know who to ask those questions of

TRIAL EXAMINER: That must be judged from the documents in evidence.

MR. GORDON: Without benefit of any cross examination?

TRIAL EXAMINER: With respect to those matters I think but if you could [2219] present evidence to show that the reports themselves are not accurate, that is something else again. Taking that into consideration as to how much weight should be given to a report and when after examining that and after determining how the witness' conclusions compares to what he has in front of him, these are inferences to be drawn from the files.

MR. HARVEY: Maybe I can explain it this way. I think it is important and it will come up in the other discriminatory case. What we are talking about is -- the investigatory file as far as we can determine is the extent of the knowledge that those

superiors in management had when they acted in the way that we contend is discriminatory. Plus we contend that the investigations themselves are distorted and a tool for that investigation.

TRIAL EXAMINER: Unless the contrary is shown and there is additional evidence put in, I assume the company does make its decision based upon this file. That is what these men are hired for.

MR. HARVEY: What I am trying to get to, Mr. Examiner, is it seems to me the most logical person to inquire as to the relative weight that is put into these statements is the man who took them, the investigator.

TRIAL EXAMINER: I disagree with you. When I eventually issue a Trial Examiner's Decision in this case I make certain credibility resolutions. The accuracy of those [2220] resolutions, whether they stand up or not, is going to depend on an investigation of all facts -- of looking over all the material facts. I do not think anybody is going to ask me or question me or wonder what process of thinking I went through.

MR. HARVEY: No, but in making those resolutions it certainly would be material to the case to talk to the man as far as his credibility is concerned.

MR. MCGUINN: But your Honor, they are talking about a synopsis, that assumes only the synopsis went up and not the rest of the statements went up to higher management.

TRIAL EXAMINER: In any event, I am assuming that the entire file, unless the contrary is shown, was used by management in making its decision and if the investigator's findings or conclusion in the synopsis is not borne out by the other documents I draw an inference. But the process of his thinking and how he arrived at the exact language and so on, I will not permit examination into.

MR. GORDON: How about the methodology of the examination, how it was

conducted?

TRIAL EXAMINER: We have that.

MR. GORDON: Well, I haven't. I think some questions are left open on that.

Q. (By Mr. Gordon) By the way, Mr. Witness, did you testify at a proceeding known as the Weil Case before Trial Examiner Weil? You are the same Mr. Krieger that testified [2221] in that proceeding? A. That is correct.

Q. You have General Counsel Exhibit 57 (a) in front of you. Would you turn to the synopsis page? A. Yes.

Q. Do you see the asterisk by the right of your name? A. Yes.

Q. What does that signify, if anything? A. It signifies that I dictated the case.

Q. Would that mean you were more or less in charge of the investigation? A. Yes, sir.

Q. Were you not told to undertake an investigation to determine whether employee Gary Raymond should be disciplined for the incident which occurred?

MR. MCGUINN: I object. General counsel has been over this.

TRIAL EXAMINER: We can take that for granted. Sustained.

Q. (By Mr. Gordon) Did you ever during the course of your investigation undertake to investigate the propriety of Foreman Heim's conduct?

MR. MCGUINN: I object.

TRIAL EXAMINER: Sustained.

MR. GORDON: Mr. Examiner, it just seems to me that when you have two men [2222] involved in one incident --

TRIAL EXAMINER: You have documents and statements from the men and you have testimony by your witnesses as to what was done.

MR. GORDON: I am not going into the merits at all in terms of statements.

We have not gone into the methodology of the investigation. What I am trying to say to you is if this witness were instructed to undertake an investigation of Gary Raymond's conduct with it in mind to discipline Gary Raymond, and that is all he did, I think that is relevant to a showing of discrimination because there was another involved in this -- Foreman Heim.

TRIAL EXAMINER: If he should show in the course of his investigation that Foreman Heim acted improperly and no discipline should be taken against Mr. Raymond, certainly this would be something management would be advised of.

MR. GORDON: What if he did not undertake that investigation at all? What if he did not concern himself one whit?

TRIAL EXAMINER: How can he connect one and not the other? And if he did not concern himself with Heim's conduct at all, would that not show in these statements.

MR. HARVEY: Your Honor, along this line, --

MR. MCGUINN: I do not think we should have continual reargument about this.

[2223] MR. HARVEY: Paragraph 7(w) specifically alleges the investigation is coercive and excessive in connection with the incident, therefore I think the very nature, the motives, and all of the mechanics of the investigation are directly in issue in this case.

TRIAL EXAMINER: I think they are in issue to the extent that they are material. I think many of the questions you have asked are not material.

MR. GORDON: I think the last question --

TRIAL EXAMINER: I do not care to argue any further, Mr. Gordon. You will ask your questions. I will make my rulings.

Q. (By Mr. Gordon) When you send a file on to your higher supervision do you wait until the entire file is compiled and assembled -- in other words nothing went up until you

had statements from all the employees contained in General Counsel 57(a), is that correct?

A. When I submitted this to my assistant supervisor the file was complete as it is now.

Q. With the synopsis? A. Yes.

* * *

[2224] Q. (By Mr. Gordon) Do you keep a log book? A. What do you mean by log book?

Q. In reference to you interviewing, the various interviews?

TRIAL EXAMINER: Do you keep a record of your investigations and the times you have seen them and so on?

THE WITNESS: Yes.

Q. (By Mr. Gordon) Is the log book prepared in October 1970 still in existence?

A. Yes.

MR. GORDON: I call upon the company to produce the log book.

[2225] TRIAL EXAMINER: What is the materiality?

MR. GORDON: I would like to see how long the various individuals were there, how often and how long, and who.

TRIAL EXAMINER: That I think would be material.

MR. MCGUINN: Mr. Witness, do you have it? Could I see it?

THE WITNESS: This is a xerox copy of my log sheet with reference to the Gary Raymond case.

MR. GORDON: May I have a moment, sir?

Q. (By Mr. Gordon) These are just the witnesses that you interviewed, is that correct? A. Yes, sir.

TRIAL EXAMINER: We will be in recess until 25 minutes to 12:00. Off the record.

(Short recess was taken.)

TRIAL EXAMINER: On the record. Please continue.

Q. (By Mr. Gordon) Do other investigators keep log books, do you know? A. Yes, sir.

MR. GORDON: I call upon the company to produce the log books for the investigators Johnson and Benton.

MR. MCGUINN: Mr. Johnson is going to testify here and he has the log book similar to Mr. Krieger's and we will similarly produce the log book for him, but we were not planning to call Mr. Benton who was not involved in any of the interviews involved here.

[2226] TRIAL EXAMINER: If you are willing to produce the two of the men who are involved, that should be sufficient.

Do you wish to introduce the log book into evidence?

MR. GORDON: Yes, sir.

TRIAL EXAMINER: That will be Charging Party's Exhibit 2.

[The document referred to was marked for identification as Charging Party's Exhibit 2.]

TRIAL EXAMINER: You are offering it and the company has no objection?

MR. MCGUINN: No objection.

TRIAL EXAMINER: Charging Party's Exhibit 2 is received.

[The document heretofore marked as Charging Party's Exhibit 2 was received in evidence.]

Q. (By Mr. Gordon) What was Mr. Benton's role? A. At the interview one time he took the original complaint.

MR. GORDON: Then I do request his log book.

TRIAL EXAMINER: Why would that be material? I take it you want these

log books in the hope that this will corroborate the testimonies of your witnesses as to the length and time of your investigation?

MR. GORDON: I think the investigation of Mr. Heim also goes to that.

MR. MCGUINN: He is not being accused of excessive investigation.

[2227] MR. GORDON: The two main participants of the incident and how long each of them was interviewed respectively, I think that is very much relevant.

TRIAL EXAMINER: I do not see it. We have their statements here.

MR. GORDON: I am not asking for the statements. I am asking for the amount of time in which they were interviewed, actual amount of time, and I think it was just as relevant as the amount of time interviewing Mr. Raymond or any of these other witnesses — the amount of time interviewing Mr. Heim.

TRIAL EXAMINER: Would you have me draw an inference if Mr. Heim's investigation and Mr. Raymonds varied timewise? If the amount of time getting the material from Mr. Heim was much shorter than from the employee witnesses? Would this be significant?

MR. GORDON: I think it would tend to establish that.

TRIAL EXAMINER: Well, I do not think so. Anything else, Mr. Gordon?

* * *

[2230] REDIRECT EXAMINATION

* * *

Q. Do you know, Mr. Krieger, when you give your supervisor the report whether he sends out the entire report to the personnel department or just the synopsis? A. The entire report, as far as I know.

* * *

[2233]

DAINEY MERRILL JOHNSON

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

MR. MCGUINN: The testimony of Mr. Johnson will go likewise to paragraph 7(x) and the testimony of Mr. Raymond.

[2233]

DIRECT EXAMINATION

Q. (By Mr. McGuinn) Would you state your full name for the record? A. Dainey Merrill Johnson.

[2234] Q. What is your address? A. 341 Commonwealth Avenue, New Britain, Connecticut.

Q. By whom are you employed? A. Pratt & Whitney Aircraft.

Q. What plant? A. I am assigned to Southington.

Q. How long have you been employed by Pratt & Whitney? A. 14 years.

Q. What is your current job? A. Investigator.

Q. How long have you held that position? A. Approximately four years.

Q. What were you before that? A. Supervisor, personnel investigation, Northhaven.

Q. How long were you there? A. Two years.

Q. And before that? A. Three years as personnel investigator East Hartford, and before that four years on the guard force.

Q. Anything before that? A. One year in personnel investigation.

Q. Directing you to October of 1970, do you recall an investigation of Gary Raymond with regard to an incident with Mr. Heim? A. Yes.

[2235] Q. Did you participate in an interview in connection with that investigation?

A. Yes.

- Q. How many interviews? A. Four altogether.
- Q. Which four were they? A. Mr. Woeski, Grandchamps, Raetel, and Raymond.
- Q. You had your interview with Mr. Raymond on that date? A. October 5th, a Monday.
- Q. What time did Mr. Raymond come to the Internal Security Department? A. Approximately 8:00 a.m. that morning.
- Q. How long did the interview last? A. He left the office at 11:55 a.m.
- Q. Was any other investigator present during the interview with Mr. Raymond?
- A. Yes, sir.
- Q. Who was that? A. Robert Krieger.
- Q. Were you in the room at all times during the interview? A. No, sir, I was not.
- Q. For how long were you absent from the room? A. Approximately 20 minutes.
- Q. About when during the interview did that 20 minutes absence occur? A. Prior [2236] to the dictation of the statement.
- Q. Why did you leave the room? A. I had a telephone call.
- Q. During the time that you were there during this interview do you recall Mr. Raymond at any time asking for a shop steward? A. No.
- Q. Who conducted the interview — was it Mr. Krieger or you? A. Both of us.
- Q. Did you take notes during the time Mr. Raymond was talking? A. Yes.
- Q. At the conclusion of the statement that Mr. Raymond gave you and the questions you had for him, how was the statement ultimately taken down? A. It was dictated to a stenographer.
- Q. Approximately what time then did the dictation start? A. 9:45 a.m.
- Q. What time did the dictation conclude? A. 11:00 o'clock.

[2237] Q. (By Mr. McGuinn) Was this the usual amount of time it would take to dictate a statement of this length? A. No.

Q. Was it shorter or longer? A. Longer.

Q. Can you explain to us why it took longer to take this statement than others of comparable length?

MR. GORDON: I Object. Is there any evidence that there were any others of comparable length?

MR. MCGUINN: In his experience as an investigator.

TRIAL EXAMINER: You may answer the question.

Q. (By Mr. McGuinn) Can you account for any reason why this dictation period took longer than the normal dictation period for a statement of this length? A. Because of numerous changes requested during the dictation by Mr. Raymond.

Q. Can you tell us in general the nature of those changes requested by Mr. Raymond were? A. Practically the whole body of the statement was changed at one time or

[2238] another by Mr. Raymond, in that he said, "I don't mean it that way", or if the context were such that he did not agree with it, he wanted it changed, or the time the things happened were of a different sequence and he wanted this sequence changed.

Q. After the statement was dictated to the stenographer how long did it take the stenographer to type up the dictation? A. Approximately 35 minutes.

Q. During the time the statement was being typed up did you or Mr. Kricger or both of you converse with Mr. Raymond? A. We both conversed with him.

Q. What was the nature of that conversation? A. General conversation — I believe we discussed something about New Hampshire, Maine and Vermont, something like that.

Q. What happened after the stenographer brought the statement back? A. It was explained to Mr. Raymond that the statement would be read aloud to him and he could also read it.

Q. Did he read it? And was it read aloud to him, first of all? A. Yes.

Q. Did he read it after that or did he read it at the same time? A. He more or less had a chance to look at it as it was being read and he also looked at it after it was read to [2239] him.

Q. What happened after the reading? A. He signed the statement after the corrections were made.

Q. What was the nature of those corrections after you read the statement? A. There were some minor typographical errors which were initialled by Mr. Raymond, any request by him to change the line, the sentence, or the actual typing in the statement.

Q. Did he afterwards sign it? A. Yes, he did.

Q. I want to show you the first paragraph of the statement of Mr. Raymond which is General Counsel Exhibit 57(a), and particularly the first sentence of that paragraph that refers to the fact that it is a voluntary statement given without fear of threat or promise of favor. I want to ask you whether Mr. Raymond made any objection about that paragraph of the statement at any time during the interview? A. No, he did not.

Q. Do you recall saying anything to him to the effect that the first paragraph of the statement could not be taken out, that it was boiler plate or a form the company used?

A. No, sir.

Q. After he signed the statement what happened? A. He was asked to return to his department, clock out, and be sure he got his fully allotted lunch period.

[2240] Q. During the interview did you have any discussion concerning the company rule book? A. Yes.

Q. At what point in the interview did you have that discussion? A. This was during the dictation of the statement?

Q. What was said? - and by whom? A. Mr. Raymond was asked if he was familiar with the company rule book.

Q. Did you or Mr. Krieger say that? A. Mr. Krieger.

Q. What was the response? A. He said, Yes, he was.

Q. Anything else about the company rule book? A. He remarked that he was a s familiar with the company rule book as he was with the union contract.

Q. Anything further? A. The rules were discussed with reference to insubordination and improper conduct. He said he felt he had not violated any rules.

Q. After he signed the statement did you have any discussion about the company rule book? A. No, sir.

Q. After he signed the statement did you in any way change your demeanor of conduct toward Mr. Raymond? A. No, sir.

[2241] Q. Did you at that time become rough or abusive toward him in any way?
A. No.

MR. MCGUINN: Nothing further.

[2241] CROSS EXAMINATION

Q. (By Mr. Harvey) Mr. Witness, who assigned you to the investigation of the Raymond-Heim incident? A. Mr. Montgomery.

Q. Is he head of Internal Security? A. He is the assistant supervisor.

Q. What instructions did you receive from him when he assigned you to this? A. He

told me to help out with the interviews with reference to the complaint?

Q. Did he tell you what the complaint was? A. I had an idea of the complaint.

Q. What did he tell you? A. That Foreman Heim had made certain allegations against Mr. Raymond.

Q. Did he tell you what they were? A. Yes.

Q. Did he give you a list of witnesses to interview? A. No.

Q. How did you determine the four witnesses you interviewed? A. They were named [2242] in Mr. Heim's statement.

Q. I see. That was from Mr. Heim's statement you got that. You did not take Mr. Heim's statement, though? A. No, I did not take his statement.

Q. Did you have a copy of Mr. Heim's statement after he gave it? A. No, I did not have a copy, but I had knowledge of the statement and notes from it.

Q. When were you assigned to the Heim-Raymond investigation? As far as the interview of October 2nd, when were you assigned to it? A. That was the day I was assigned.

Q. You were not assigned on October 1st? A. No, I was in Southington.

Q. Were you called up from Southington for this investigation? I do not understand how it was that you were investigating in East Hartford if you were in Southington.

TRIAL EXAMINER: Were you there for the day?

THE WITNESS: I do the dictation of my reports in East Hartford.

TRIAL EXAMINER: Did you happen to be there in East Hartford?

THE WITNESS: I happened to come in that morning and I was asked to help out.

Q. (By Mr. Harvey) But your normal duties involve the Southington plant, not East

[2243] Hartford plant, is that right? A. Normally speaking, yes.

Q. Did you interview an employee, Edmund Plass? A. No, I did not.

Q. Did you pick up his name as being one of the witnesses from the Heim statement?

A. I believe not.

Q. Let me ask you this, after the Heim statement was taken -- by the way what time was the Heim statement taken? A. Early in the morning of October 2nd.

Q. Did your fellow investigators who conducted the investigation then split up the investigation? A. Could I ask you what you mean by "split up"?

Q. Yes. You testified that the four you interviewed you got from the Heim statement. Did you and your fellow investigators, Mr. Krieger and Mr. Benton read the Heim statement and decide who would interview who as a result of the Heim statement? A. No, they made no decision as to who would interview who.

Q. How is it you came to pick those four? A. They happened to arrive at the office when I happened to be available.

Q. Who called them to the office? A. Arrangements were made through supervision?

Q. What supervision? Who decided these four would come to the office? A. Mr.

[2244] Connolly and Mr. Montgomery.

Q. So they were the ones deciding who you would talk to and who you would interview. You did not make that decision yourself as an investigator? A. As to who I should interview?

TRIAL EXAMINER: His testimony as to the four people interviewed were taken from the Heim's statement.

MR. HARVEY: I am aware of what his testimony was.

TRIAL EXAMINER: So what is the point of asking for repetition.

MR. HARVEY: I am not asking for repetition. I am not satisfied with his answer.

TRIAL EXAMINER: I gather he did not select them himself. He said he did not select them himself.

Q. (By Mr. Harvey) When were they selected? When were you told these were the ones you were going to interview? A. I was not told these were the four I was going to interview.

Q. Going back to the day of October 2nd, in the course of the investigation of the Raymond-Heim incident did you just sit in an office and interview people as they came in, in connection with this investigation? A. As I was available, yes.

Q. Did anyone tell you to interview these specific four, or they just came and you [2245] took them? A. I took them as I was available.

Q. Were there other people also interviewing other witnesses that came down that day? A. Yes, sir.

Q. And that is Mr. Krieger and Mr. Benton? A. Yes.

Q. Who was it that took the statement from Mr. Heim? A. Mr. Benton.

Q. Were you told specifically on October 5th that you were due to participate in the Raymond interview? A. Yes, I was.

Q. In connection with the other individuals on October 2nd that were being interviewed, were there always two investigators interrogating them?

MR. MCGUINN: I object to the characterization "interrogation".

TRIAL EXAMINER: Did you conduct the other interviews by yourself?

THE WITNESS: Yes, I did.

Q. (By Mr. Harvey) Do you know whether or not one or two conducted the interview with Mr. Heim? A. I believe one.

Q. After each interview when you completed each interview, did you forward the results of that interview to Mr. Montgomery who made the assignment to you? A. I would [2246] make him aware the statement was completed. If there was a statement taken it would be given to the girl for typing.

Q. After the completion of the typing did you review for him as you were going along, the contents of it? A. He would be shown the statement.

Q. You testified, Mr. Witness, that both you and Mr. Krieger took notes of the Raymond interview, is that correct? A. Yes.

Q. And the dictation of that took from 9:35 of 9:45 until 11:00 a.m.? A. Yes.

Q. Who dictated that statement? A. Mr. Krieger.

Q. Did you put any of your notes into it, or corroborate his as far as participating in the dictation? A. He dictated practically all of the case from his notes, other than any changes that Mr. Raymond wanted.

TRIAL EXAMINER: Your notes were not used in preparing this statement?

THE WITNESS: No, sir.

* * *

[2255] REDIRECT EXAMINATION

Q. (By Mr. McGuinn) Just so there is no misunderstanding, I was not sure if Mr. Gordon asked for producing of the time log. Do you have that with you? A. Yes.

[2256] TRIAL EXAMINER: Do you still wish those, Mr. Gordon.

MR. GORDON: Yes, sir.

TRIAL EXAMINER: Would you put it in evidence, Mr. Gordon.

MR. GORDON: This will be Charging Party's Exhibit 3 for identification.

[The document referred to was marked as
Charging Party's Exhibit 3 for identification.]

MR. GORDON: Do you have the original on this form from which the xerox was made?

MR. GUINN: I believe he does have it.

MR. GORDON: This is illegible.

TRIAL EXAMINER: If the original is legible, Mr. Johnson, would you arrange with Mr. McGuinn so that Mr. McGuinn can produce it? We will accept that temporarily. Mr. McGuinn will arrange to give us a legible copy or the original, and if you need to question at that time you may.

In the meantime, Charging Party's Exhibit 3 is received.

[The document heretofore marked as Charging Party Exhibit 3 was received in evidence.]

Q. (By Mr. McGuinn) Mr. Johnson, can you tell us what reason if any there was to have two investigators interview Mr. Raymond?

MR. HARVEY: Objection.

TRIAL EXAMINER: Overruled.

[2257] THE WITNESS: Because of the fact that Foreman Heim had said Raymond knocked the pencil out of his hand and called him names, and another witness had indicated that although he did not hear any discussion Raymond appeared mad and he had seen him mad at times in the past.

Q. (By Mr. McGuinn) Do you recall any case you have ever had where you have had two investigators interview a witness? A. Yes.

Q. What case was that? A. Recently there was one involving a Theodore Callisa.

Q. Is he salaried or hourly? A. Salaried.

Q. What was the nature of the complaint there? A. This is a situation where there was a forthcoming marriage, questionable notes written, and Mr. Callisa was interviewed with

reference to this.

Q. Did that case have to do with any threats of any kind? A. An ex-girlfriend indicated Mr. Callisa was emotional and at one time had broken windows in her home.

* * *

[2258] Q. (By Mr. McGuinn) Have you ever had an employee you were interviewing object to the first paragraph, the standard paragraph, of the statement? A. No.

[2259] Q. Does your department have any standard procedure that it follows when a person does object to that first part of the statement?

MR. GORDON: Objection

TRIAL EXAMINER: Overruled.

* * *

Q. (By Mr. McGuinn) What happens then? A. It would be noted to the effect that he did not wish to sign the statement and the reason why.

Q. Have you ever had a witness refuse to sign a statement? A. Yes, sir.

* * *

[2313] FRANCIS EDWARD PORTER

was called as a witness by and on behalf of the Respondent, and, having been first duly sworn, was examined and testified as follows:

[2313] DIRECT EXAMINATION

Q. (By Mr. McGuinn) Would you state your full name for the record? A. Francis Edward Porter.

Q. And your address? A. 21 Hickory Drive, Brunswick, Connecticut.

Q. By whom are you employed? A. Hamilton Standard, Windsor Locks, Connecticut.

Q. How long have you been employed by the company? A. 19 years.

Q. What is your current job? A. Supervisor of security.

* * *

Q. I want to ask you, Mr. Porter, whether or not you were involved in an investigation of a Mr. Sullivan in and around July of 1970? A. Yes, sir.

Q. Did you have an interview with Mr. Sullivan during that month? A. Yes.

Q. What date? A. July 2nd.

Q. When was the first time you saw Mr. Sullivan on July 2nd? A. Approximately [2315] 10:05 a.m.

Q. How long did the interview with Mr. Sullivan last? A. Between 20 and 25 minutes.

Q. Do you recall the nature of the questions you asked and the responses you received from Mr. Sullivan? A. Yes, I do.

Q. Would you please relate those to us? A. Mr. Sullivan arrived at the Internal Security offices at approximately 10:05 a.m. I advised him that I had called him down to the Internal Security office regarding a violation of company rules, number one, passing out unauthorized literature and number two, passing out literature during working hours.

Q. Did Mr. Sullivan have any comment to that? A. Yes, sir.

Q. What did he say? A. He stated he did not think it was unauthorized literature.

Q. What did you say to that? If anything? A. I advised him that as far as I was concerned it was unauthorized literature. It had not been authorized by the company.

Q. What happened then? A. I advised him that I would like to take a statement pertaining to the violation of company rules?

Q. What happened then? A. I proceeded to draft a statement in longhand. I asked [2316] him if he was passing out literature after 7:30 a.m.

Q. What did he say? A. He said he did not think he was passing it out after 7:30 a.m.

Q. What, if anything, did you say? A. I told him that Foreman Dolinsky had informed me he was passing out some literature at 7:33 a.m. in Department 757.

Q. What did he say? A. He said, "I guess you are right."

Q. Then what happened? A. I proceeded to write the statement, right after 7:30 a.m. --

Q. You are not taking about the time you were taking the statement when you say "right after 7:30 a.m.?" A. No, the time the statement was taken was probably 10:15 a.m.

Q. So you are referring to the first part of your statement that you took from Mr. Sullivan? A. Yes.

Q. What happened after you finished that first sentence? A. Mr. Sullivan said, "Gee, I do not think it was after 7:30 a.m."

Q. What did you say? A. I again told him that according to Foreman Dolinsky it [2317] was 7:33 a.m. He stated then, "I guess you are right."

Q. What happened after that? A. We wrote the first line of the statement out and I then asked him if he would elaborate and tell me what happened.

Q. Did he? A. Yes.

Q. After you completed the statement what did you do? A. After I completed the statement I read the statement to him. I asked him if it was true and correct and if it was true and correct would he sign it. I then gave him the statement. He read it, signed it, gave it back to me.

Q. What, if anything, happened after he signed the statement? A. He then asked me what was going to happen to him?

Q. What did you say, if anything? A. I told him I had no idea. This was not my department.

Q. Did you have any further discussion with him after that? A. Yes.

Q. What was the nature of that discussion? A. I advised him I had just heard the news of his former Union president. I knew Bob Seedman was a close friend of his, and he said yes, he missed him also. That was the basis for the conversation.

Q. Was there anything relating to this incident in substance that Mr. Sullivan told you that you did not put into the statement?

[2318] MR. HARVEY: Objection.

TRIAL EXAMINER: Overruled. The witness may answer the question.

THE WITNESS: No, I committed to the statement what he gave me.

MR. HARVEY: The reason and the basis of my objection is this -- he did not testify to what Sullivan told him. He just testified in his direct examination that he told him the story.

TRIAL EXAMINER: I see no harm in his answer.

MR. HARVEY: Well, if the trial examiner will allow, on cross examination I will ask to find out what it was Sullivan told him.

TRIAL EXAMINER: We will see when you start your cross examination. It may be that I consider his response of no particular materiality.

Q. (By Mr. McGuinn) During the interview you had with Mr. Sullivan, did Mr. Sullivan tell you he had a policy of not handing out merit ratings during company time?

A. No, he did not.

Q. Did he ask you to put anything like that in the statement? A. No, sir.

Q. During the interview did Mr. Sullivan appear nervous or excited to you? A. No, sir.

[2319] Q. Was this the first time you had ever seen Mr. Sullivan? A. No, sir.

Q. Where did you know him prior to this? A. I have known Mr. Sullivan for approximately the last 10 or 12 years. He used to appear at all of our annual credit union meetings with Butler Seedman. I have had occasion to talk to him at those meetings. I have held a chairmanship on the credit committee for the last 10 or 12 years. I appeared at these annual meetings also.

Q. Did you know him well enough to call him by his first name the day he was interviewed? A. Yes, sir. I always him Bob.

Q. When you read Sullivan's statement back to him at the conclusion of the interview did he request any changes at that time? A. No, he did not.

Q. When he read it to himself then did he thereafter request any changes? A. No.

Q. Did Sullivan during this interview say anything to the effect he was just being hung. A. No, sir.

Q. Did he ask you if he could write out his own statement in his own handwriting?

[2320] A. No, sir.

Q. Did you ever tell Sullivan during this interview anything to the effect that he could be given a warning, suspended, or terminated for these activities? A. No, sir.

Q. During the interview did either you raise your voice to Mr. Sullivan or did he raise his voice to you? A. No, sir.

* * *

[2323] CROSS EXAMINATION

* * *

Q. (By Mr. Harvey) Who assigned you to the investigation of Mr. Sullivan's incident on or about July 2nd? A. I received a telephone call from Mr. Dustin who is the personnel advisor.

Q. Did he give the circumstances of the case? A. He called me late that morning advising me that Mr. Willhide, the personnel manager, requested that I investigate an alleged handing out of unauthorized literature during working hours and to contact Foreman Dolinsky for the details. This was on the morning of July 1st.

Q. It had happened July 1st, right? A. Yes.

Q. So the morning it happened you got the call to go and investigate? A. Right.

Q. Did you talk to Foreman Dolinsky first off? A. Yes.

Q. About what time did Sullivan come down to your office? A. Approximately 10:05 a.m. on July 2nd.

Q. Do you keep a log in connection with your activities and time in connection with interviews and investigations? A. No, I do not.

Q. How long was your total interview? A. 20 to 25 minutes.

Q. During the start of your interview with Mr. Sullivan is it not a fact that Mr. Sullivan did not know what you were talking about? -- as far as unauthorized literature, did he not say "what do you mean, unauthorized literature"? A. No, he said, "I do not think it was unauthorized [2326] literature."

Q. Did he describe to you what he said to Foreman Dolinsky in his statement -- that he said "Whoops, I did not know it was after 7:30." -- did he describe this to you? A. Did he describe this to me?

Q. Yes, when he was confronted by Foreman Dolinsky that he said, "Whoops, he did not realize it was 7:30." A. No, sir.

Q. Did he not tell you, Mr. Witness, he did not intend to pass out literature on company time? A. No, sir, he did not tell me this.

Q. Did he ever tell you in the course of your conversation with him that day that he

had not heard the buzzer? A. No, sir, he did not tell me this.

Q. What reason did he give to you for passing it out on company time? A. He stated that employee Fichetta had asked him a few days prior to this date if he could get his merit rate for him and as he walked by the wiring booth he called him and gave him the merit rating.

Q. Had you interviewed Dolinsky by the time you had interviewed Sullivan? A. Had I interviewed Dolinsky? Yes. I interviewed Foreman Dolinsky first.

[2327] Q. Then did you understand from talking to Dolinsky and Sullivan that it was Sullivan's defense he had not heard the buzzer and it was unintentional? A. Did I understand that?

Q. Yes, from talking to Dolinsky and Sullivan? A. No, sir.

Q. What then -- did Sullivan ever tell you in the course of his interview that it was his policy not to give out merit ratings to any employees unless he was requested to do so? A. He advised me he had handed these out before during non working hours and he stated he went to union headquarters and picked up the merit increases and they had been in his drawer and many of the employees asked for them.

Q. Did you inquire of him how he had possession of them? A. Yes, I did.

Q. What did you ask him? A. I asked him where he got them. He stated, at union headquarters.

Q. Did you determine prior to that that he was not an officer or active in the union?

A. I asked him if he was a union officer and he said he was not.

Q. Would you tell us again how the figure 7:33 came about? A. The 7:33 figure was given to me by Dolinsky.

Q. You confronted Mr. Sullivan by saying that he was passing it out on company time?

[2328] A. I told him Foreman Dolinsky advised me he was passing them out at

7:33 a.m., sir.

Q. And at that time, Mr. Porter, and please forgive me because I think it is important, had not Mr. Sullivan told you that he did not realize it was 7:30? A. No, he did not.

Q. How was it you came to confront him with 7:33 hour? A. How?

Q. How was it you felt the need to confront him with the 7:33 figure if he had not questioned whether or not it was 7:30? A. He had previously told me he did not think it was during working hours.

Q. All right. Did you put that in his affidavit? A. No, I did not.

Q. You testified on direct examination, Mr. Porter, that in the course of the early part of your discussion you told Sullivan that as far as you were concerned what he had done was pass out unauthorized literature. Is that right? A. Yes, I told him that.

Q. And as a matter of fact you had the merit ratings that were the subject of the complaint in your possession, did you not? A. Yes.

[2329] Q. Did you show them to him? A. Yes.

Q. Did you ask him how come he had given his merit rating to somebody? A. Yes.

Q. What did he say? A. He had not been aware he gave it to him.

Q. (By Mr. Harvey) He was not aware that he gave it to him -- I see. Did you consider also that Employee Fichetta was in turn passing out unauthorized literature on company time? A. He was not passing out literature.

Q. Did not your investigation reveal that Fichetta took the three merit ratings in question from Mr. Sullivan and transported them on working time to the Electron Beam Department and distributed them there? A. Fichetta advised me he handed them the papers and walked away. He did not know where they were.

Q. He went over to the other department and discussed them with Carlone and

Conforto? A. He did not have an opportunity. He simply had them in his hand.

Q. Well, you do not know, do you? Your investigation does not reveal whether Sullivan and Fichetta were discussing that. He did not tell you that, did he? So is there any difference in your investigation between what Fichetta was doing and what Sullivan was doing?

* * *

[2330] THE WITNESS: Yes, there was.

Q. (By Mr. Harvey) What was that? A. Employee Sullivan was giving the merit ratings to Employee Fichetta.

Q. What was Fichetta doing with respect to Carlone and Conforte? A. He just simply went over to the Electron Beam department. He was holding them and the foreman came over and took them away from him.

Q. Were the two employees present? Did your investigation reveal that? A. Only what Employee Fichetta advised me.

Q. Is it not a fact that your investigation revealed that Dolinsky told you he observed him reading them to the employees in the Electron Beam department? A. That is what Dolinsky told me, yes.

* * *

[2331] Q. (By Mr. Harvey) Mr. Witness, I show you General Counsel 64(a) which is a synopsis of the case and ask you whether or not you prepared it? A. Yes, sir.

Q. Is that your work? A. Yes, sir.

Q. And directing your attention to the sentence in the second paragraph I read, "employee Fichetta left the booth and was observed reading the papers a few minutes later." Now, Mr. Witness, your testimony is that that is incorrect? A. That is the information Dolinsky gave me.

Q. And that is what you put in the synopsis? A. Yes.

* * *

Q. Has Mr. Sullivan ever appeared before you in your capacity as investigator for internal security prior to this time? A. No, sir.

* * *

[2333] REDIRECT EXAMINATION

Q. (By Mr. McGuinn) Mr. Porter, prior to this investigation regarding Mr. Sullivan did you know anything about these merit rating cards or where they came from? A. No, sir.

Q. In your 17 years as an investigator how many cases that you can recall had to do with union solicitations during company time or distribution of union literature during company time or which are otherwise related to the union? A. I have no cases, sir.

Q. How many cases have you had in the last 17 years? A. Hundreds, sir.

MR. MCGUINN: Nothing further.

[2333] RECROSS EXAMINATION

Q. (By Mr. Harvey) Did you consider these merit ratings to be union literature?

[2334] A. No, sir.

Q. They were unauthorized but they were not union literature, is that your testimony?

A. They were unauthorized at the time he was handing them out.

Q. You knew in fact that they came from the union bill? A. No, sir.

Q. Is it your testimony that as an Internal Security Investigator you did not know that the employees have merit ratings available or made available to them at the union hall?

A. I knew an employee could go to the union hall and get his rating, but I had no knowledge that an employee could go to the union hall and get dozens of them and bring them back.

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[2335]

WILSON E. BLY

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

[2335]

DIRECT EXAMINATION

Q. (By Mr. McGuinn) State your full name, please? A. Wilson E. Bly.

Q. What is your address? A. 111 Sylvan Street, Springfield, Mass.

Q. By whom are you employed? A. Pratt & Whitney Aircraft Corporation, East Hartford.

Q. How long have you been employed by Pratt & Whitney? A. 25 years.

Q. What is your current job? A. Foreman, jig bore line.

Q. How long have you been a foreman? A. 20 or 21 years.

[2336] Q. Were you a foreman in early July of 1970? A. Yes, I was.

Q. By the way, what shift are you on? A. First shift.

Q. Referring your attention specifically to the early part of July 1970 do you recall a conversation you had with one Gary Raymond? A. I do, sir.

Q. By the way, is Mr. Raymond an employee under your supervision? A. No, he is not.

Q. Would you tell us how this meeting with Mr. Raymond came about? A. I asked the foreman to send Mr. Raymond to my desk to give a disposition on a grievance that had been issued.

Q. What date was this that you called him to your desk? A. July 7th, 1970.

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*

[2338] Q. Now going back to July 7, 1970 when Mr. Raymond first came up to your

desk, what was the nature of the conversation you had with him? And he had with you?

A. I opened the conversation.

Q. What did you say? A. I stated that I had taken over the grievance in this particular case because of the fact that Mr. Bachamd was my employee. I then went on to tell him that in my examination, from what I had gathered, I felt there was no violation of company contract.

Q. What, if anything, did he say? A. Mr. Raymond made the statement that he thought the man - that there was a violation because of the fact that the man was working on the job, he had been working on it for three weeks, and he was under the impression that he should be given the overtime on it.

Q. What, if anything, did you say to that? A. I said that was not true.

Q. Did he say anything further in regard to the overtime? A. He said, "You foremen, some of you have different criteria on this -- different standards. Some of you try to level off your own overtime in your own area, some level it off in the area in which the [2339] employee is loaned to." and so forth.

Q. What, if anything, did you say at that point? A. I said I had my own way of taking care of the overtime and it was my purpose to equalize the overtime according to the contract.

Q. What, if anything, did he say to that? A. He then said -- He made a statement at that time to the effect that the foremen are making different forms of determining overtime.

Q. What, if anything, did you say at that point? A. I repeatedly said this was not so, that I had my standards and it was supposed to be the standard throughout the plant.

Q. Did you say anything else or did he say anything else throughout the conversation?

[2339] A. After that I made kind of a little remark to the side to him. I said something in Japanese -- "anada yakimas" -- I just said this in a jocular way -- it means in Japanese "you talk too much".

Q. Did you explain to him what that meant in Japanese? A. Immediately.

Q. What then did Mr. Raymond say after that? A. He said, "Well, do what you have to do and let me be on my way."

[2340] Q. What happened after that? A. I had already made up my mind, of course, to reject the grievance, so I signed the grievance, made out the statement, kept the yellow copy and he went back and returned to his work.

Q. How long did this meeting take place between you and Raymond at your desk?

A. I would say no more than ten minutes, five or ten minutes.

Q. Prior to this meeting as Mr. Raymond was approaching you or during the meeting did you make any gestures to Mr. Raymond with your hand? A. No, sir.

Q. Specifically I refer to raising your right hand with four fingers extended and your thumb descending and going back and forth like this? A. No, sir.

Q. Were there any employees in your department close enough to your desk to overhear this conversation? A. No, sir.

Q. When Raymond came to your desk did you have a smirk on your face of any kind?

A. No, sir.

* * *

[2491]

NATHANIAN D. MORSE

was recalled as a witness by and on behalf of the Respondent and having been previously sworn, was examined and testified further as follows:

* * *

[2492]

DIRECT EXAMINATION

Q. (By Mr. Wells) Mr. Morse, would you give us a brief description of the merit rating system which existed in 1945?

EXAMINER POLLACK: Mr. Wells, does it differ from the present system?

Q. (By Mr. Wells) Can you answer that question? A. Not in any material respect.

MR. HARVEY: I object to any further testimony on that as being cumulative.

EXAMINER POLLACK: Are you willing to stipulate that the merit rating system which existed in 1945 is not substantially different from the system in effect today?

MR. HARVEY: Yes, I'll stipulate.

EXAMINER POLLACK: All right. So stipulated then.

* * *

[2523] Q. (By Mr. Wells) Mr. Morse, I show you what has been marked as Respondent's Exhibit No. 44 for identification and ask you if this is a copy of the written proposal submitted by Lodge 1746 in 1950? A. Yes, it is.

Q. I direct your attention to page nine of this exhibit, Article VII, Section (3).

MR. RATNER: Section (3) ?

MR. WELLS: Section (3), Section (4) and Section (5).

* * *

Q. (By Mr. Wells) What were the negotiations that year? What did the Union and the Company agree to with respect to the merit rating system? A. The Company agreed to

[2524] provide the Union with a considerable amount of data. Specifically, copies of job evaluation sheets, the manner in which they were scored, the weights which were assigned to the various factors, the same for the employee performance rating plan including the sample sheet, the factors that were involved, the scoring. All aspects of the job evaluation and the

employee performance rating plan.

We also agreed on request by the Union to enter into an extensive educational program for persons to be selected by the Union to be taught both in the employee rating performance plan and job evaluation. That was confirmed outside of the contract by a letter from the personnel manager at that time, my boss, Mr. Downs.

Those meetings were held following the contract in early 1951. They involved the education of about eleven or twelve Union officials including business agents. The education involved something on the order of fifty some hours in both job evaluation and employee rating.

It was comparable if not identical to the kind of education given to supervisors on these plans. We also provided documentation to the Union both as a consequence of the contract and the training.

[Whereupon, Respondent's Exhibit No. 45 was marked for identification.]

[2525] Q. (By Mr. Wells) I hand you what has been marked as Respondent's Exhibit No. 45 for identification and ask you if this is the contract entered into between the Company and Lodge 1746 pursuant to the negotiations you have just described? The contract is dated December 4, 1950. A. Yes, it is.

MR. WELLS: I want to direct the Trial Examiner's attention --

EXAMINER POLLACK: May I have a copy of it.

Q. (By Mr. Wells) In this agreement, page nine, Section (10) in the middle of the page it states that it is recognized that the administration and operation of the hourly job rating plan are the functions and responsibilities solely of management. The basic job hourly rating plan now in effect will be continued during the life of this agreement.

I ask you Mr. Morse, is the hourly job rating plan the merit rating system we have been talking about here? A. No.

Q. All right. Explain what that is. A. That is what is better known as job evaluation. That's the evaluation of jobs and the assignment of jobs to labor grades. There is a comparable section to the one you just read about four or five sections further on dealing with performance rating.

Q. All right. I direct your attention to Section (12) on the same page. A. Section [2526] (13) is the comparable section to the one you just read for the job evaluation plan. Section (13) is the one that deals with the employee rating performance plan -- recognition by both parties --

MR. HARVEY: I object.

MR. RATNER: I object.

EXAMINER POLLACK: The witness may continue.

MR. HARVEY: I think the contract speaks for itself.

EXAMINER POLLACK: Let him give his explanation.

THE WITNESS: That the performance rating plan then in existence was the responsibility of management and that it would remain during the life of that contract unchanged.

MR. HARVEY: I move to strike it. I object to this witness's advocacy in this proceeding in his testimony.

EXAMINER POLLACK: Denied.

MR. WELLS: Also, Mr. Examiner, I direct your attention to page ten, Section (14), Section (15), Section (16) and Section (17). They all deal with the employee performance rating plan.

EXAMINER POLLACK: You are moving the admission of Respondent's Exhibits 44 and 45?

MR. WELLS: Yes.

MR. RATNER: I object.

EXAMINER POLLACK: Respondent's Exhibits 44 is rejected and Respondent's Exhibit 45 is received.

[2527] [Whereupon, Respondent's Exhibit No. 44 was rejected.]

[Whereupon, Respondent's Exhibit No. 45 was received in evidence.]

* * *

[2527] VOIR DIRE EXAMINATION

Q. (By Mr. Ratner) Do you have Exhibit No. 45 in front of you? A. Yes, I do.

Q. Turn to page ten, Section (17). A. Yes.

Q. That section provides, does it not, that claims of improper rating under the performance rating plan may be processed as a grievance under Article V? A. Yes.

Q. That employee performance rating plan is the so-called merit plan, is it not?

[2528] A. Yes.

MR. RATNER: That's all.

Q. (By Mr. Wells) Mr. Morse, you testified that as a result of the 1950 negotiations you agreed to educate some Union representatives in the merit rating system. A. Yes. And job evaluation both.

Q. How did the education and training in these two areas differ, if at all, from the training given to the foremen which has been described. A. In no substantial manner at all.

Q. I hand you what is in evidence as General Counsel's 34(a) and ask you if this

information was given to the Union representatives in the education course with respect to merit rating and job evaluation?

MR. HARVEY: May I have a copy, Mr. Wells?

MR. WELLS: It's already in the record. General Counsel's 34(a).

THE WITNESS: Yes, the information on 34(a) was given to the Union. 34(a) is dated 4-21-65 but the description and definition of the factors used on the hourly performance rating plan, namely the five factors -- accuracy, output, use of working time, application of job knowledge and cooperation were given to the Union at that time in addition to an extensive explanation of each and answering their questions.

That's part of what they were given. There was much more than this.

[2529] Q. (By Mr. Wells) Mr. Morse, was Mr. George Cope, who is presently a business agent for District 91, was he one of the persons who took that course? A. Yes. He was one of the eleven or twelve.

Q. He is presently a business agent for the Union? A. Yes.

Q. Again, referring to General Counsel Exhibit No. 45, page ten, I direct your attention to Section (14) where the Company agrees to provide the Union with sample copies of employee performance rating sheets together with a description of the factors, the weighing of the factors, and the range of the scoring points which relate to the established grievance steps.

Did you comply with this agreement -- that is, supply the Union with that material?

A. Yes, we did. In writing.

[Whereupon, Respondent's Exhibit No. 46 was marked for identification.]

Q. (By Mr. Wells) I hand you what has been marked for identification as Respondent's

Exhibit No. 46 and ask you if this is the document which you transmitted to the Union pursuant to Section 14 shown on page ten of Respondent's Exhibit No. 45. A. Yes, sir. It is. As it indicates at the top of it.

[2530] MR. WELLS: I move that Respondent's Exhibit No. 46 be received.

MR. HARVEY: May I have just a moment to read it, Mr. Examiner and quickly review it?

EXAMINER POLLACK: Yes.

MR. HARVEY: May I have a voir dire on it please?

EXAMINER POLLACK: Yes, you may.

VOIR DIRE EXAMINATION

Q. (By Mr. Harvey) Prior to this time, Mr. Morse, had the Union had any of this information? A. Yes. We were conversant with and knowledgeable about and we had discussed in negotiations all of this. This was the first time they had requested that this be formalized in writing and is the first time that they asked for an extensive educational program which took place subsequent to the delivery of this document to the Union.

Q. Is this document, Respondent's No. 46 for identification, a determination of the Company and a product of the Company efforts or was it a joint effort by the Union and the Company? A. If I understand the question, Mr. Harvey, the document was produced by the Company in response to a request by the Union for this information dealing with the then existing plan including controls and points and weights and factors.

Q. The same plan that is in effect today? A. Yes, sir.

[2531] MR. RATNER: Don't we have a stipulation on that?

MR. HARVEY: I believe we do. I object to it on that basis.

EXAMINER POLLACK: Overruled. Respondent's Exhibit No. 46 is received.

[Whereupon, Respondent's Exhibit No. 46 was received in evidence.]

Q. (By Mr. Wells) Mr. Morse, pointing to page nine and ten of Respondent's Exhibit No. 45, pointing to Section (12) on page nine and Section (13) on page nine -- A. Just one moment, please. Page nine.

Q. Section (12), Section (13), Section (15), Section (16) and Section (17) --

MR. RATNER: What document are we talking about?

EXAMINER POLLACK: Respondent's Exhibit No. 45.

THE WITNESS: Yes, sir.

Q. (By Mr. Wells) I'll give you that again. Section (12), Section (13), Section (16) and Section (17).

Are those sections in those exact words, have they been included in every contract between the Company and the Union since 1950? A. Yes, sir.

Q. Including the present one? A. Including the 1968 contract which is the present contract.

Q. Section (15) on page ten, has the substance of that provision remained in the contract in all contracts since 1950? A. Yes. Identical except that here it would provide that all subsequent contracts be made available.

Q. In other words, in this contract the Company agreed to provide the Union with a listing and in subsequent contracts that was changed to make available? A. That is correct, but the wording is otherwise identical. In all subsequent contracts including the present one.

* * *

[2569] Q. Let me ask you this, Mr. Morse. In the present contract which is in evidence as General Counsel's Exhibit 6 -- well

Can we stipulate with respect to the production of records other matters under consideration in this case that General Counsel Exhibit No. 6 which is the agreement with Lodge 700 is no different in any material respect to this case than the December 5, 1968 contract covering the East Hartford and Manchester. The current contract.

MR. RATNER: So stipulated.

MR. HARVEY: I will so stipulate.

MR. WELLS: The current contract which is General Counsel's No. 6, page 37, Article X, Section (3) states that upon request of his foreman an employee will be advised of his employee rating. The testimony is, the record shows that that's been in the contract [2570] since 1950.

Now, in practice precisely how does this operate? A. Where an employee asked his supervisor the supervisor was instructed to provide the employee with his rating, that is, whether he was rated as a satisfactory employee -- J -- above standard -- R -- P, a premium employee or T, a top graded employee.

The foreman was to explain the basis of that rating to the employee upon such a request.

Q. By explain it what do you mean? A. To explain to the employee why he had rated him a J, R, P or T, whatever it may be. What is was about the supervisor's observance of that employee's performance during the rating period that resulted in the supervisor's rating the employee as he did.

This is something that the supervisor would have to do from the rating sheet dealing with the definitions and factors that appear thereon. We encourage the supervisor where he could to select highlight items that might linger in the memory of the employee as typical of the kind of things that the supervisor was doing.

Q. Is it customary to explain to the employee what would be required of him to get a higher rate? A. If he was asked, yes. And to the extent that it was possible of course.

[2571] A. If an employee were dissatisfied what procedure would he follow? A. If having received his explanation from the supervisor the employee was dissatisfied the employee had the right under the contract to request a steward and to file a grievance.

Q. And at the first step of the grievance procedure the foreman and the steward would discuss it. A. The normal procedure and the one that we encouraged was the one that the steward consult with the employee and review with the employee what he had learned from the supervisor, get the employee's side of the equation then take the matter up with the supervisor and, as the employee's advocate, explain what it was that the employee felt was wrong with the rating, wherein the employee or grievant had told the steward where he thought the foreman was in error or had improperly rated him.

Q. Assuming that the foreman and the steward did not arrive at a mutually acceptable agreement on the particular grievance the matter would be taken to the second step.

* * *

[2572] Q. (By Mr. Wells) All right, Mr. Morse. Has it ever happened at the second step or the third step or at the fourth step the rating was changed by management at that point?

A. Do you mean the shop superintendent at second step or the committee of management changed the rating as a consequence of a grievance?

Q. Yes. A. No.

Q. Invariably from 1950 to let's say 1965 what was the procedure adopted? A. When the Company through its representatives thought that there was merit or potential merit in the alleged complaint of the employee the grievance was remanded to the first step with the obligation on the foreman to rerate the employee, or in many instances to explain to the

employee in those situations where the employee had grieved and not asked for any information or an explanation of the rating and simply had grieved on the basis that he had been around long enough and deserved more money.

So it would always be remanded if management felt there was virtue or potential virtue in the allegation or the grievance.

Q. Would you explain to the Examiner why the management or the third step representatives or forth step representatives could not change it -- change the rating itself.

[2573] A. Since both the Union and the Company agreed that no such person would be in a position to know what an employee's performance was or was not. And that was not just the Company. The Union agreed to that in negotiations time and again including the present Mr. Cope.

Q. Do you have an agreement with the Union with respect to the calling of a steward when an employee desires one? A. Yes.

Q. How long have you had this agreement with the Union? A. You mean an agreement on this subject?

Q. Yes. A. You mean a contractual clause on the calling of a steward?

Q. Either a contractual agreement or an oral agreement, an understanding. A. To my recollection as far back as we have had contracts the calling of the steward has been agreed to by the parties as something would only be done in those situations where the employee was being ordered to do something by supervision, or where the employee was being disciplined or suspended.

It would only be done after the employee had either complied with the order or supervision or had had the discipline administered to him. At some point in time, exactly when I cannot recall, a contractual agreement was reached as far as putting into the contract

the calling of the steward for a discharge or a suspended employee before he left the plant but after he had been disciplined and it was mutually agreed to by the parties.

[2574] Excuse me -- as designated by the Company. Over the years there had been various proposals made by the Union. There was one I believe in 1955, if my memory serves me right, in which the Union did ask or propose that a steward be present during the interrogation of an employee by supervision or the personnel department or the plant protection department.

We discussed that and it was agreed in the subsequent contract that this was not advisable and it was not done.

* * *

[2592] [Whereupon, Respondent's Exhibit No. 58 was marked for identification.]

Q. (By Mr. Wells) I hand you Mr. Witness what has been marked for identification as Respondent's Exhibit No. 58 and ask you if this is a statistical study you had made regarding the number of time during the years 1969, 1970 and the first part of 1971 when steward were called at the request of employees in the operation of the contractual grievance procedure? A. Yes, that's correct but I would make one further modification to it.

Under the column headed "Steward Calls" it only counts a call once even though the Steward may have been back in on that particular grievance two, three or four times.

In other words, if you were the aggrieved employee and called for a steward when that steward was called it would count here once even though he would have returned to handle your case on perhaps two or three occasions thereafter.

Q. Has it been brought to your attention instances in which a foreman has refused to

[2593] a steward as required by the contract? A. Yes. That is reflected on the right

side of the page. Those are the occasions in which the Union has grieved over such a refusal. Fourteen in the case of East Hartford out of 2,048. Two in Middletown out of 605.

EXAMINER POLLACK: Were there any other refusals under the "Steward Calls" figures?

THE WITNESS: Not that we would be aware of.

EXAMINER POLLACK: In other words this is the number of refusals that the Union grieved over with respect -- as far as this document shows there may have been no other refusals to supply as steward.

THE WITNESS: That's correct.

MR. HARVEY: I'm sorry. I didn't hear. Would you read back the last question and answer.

(Whereupon, the preceding question and answer were read back.)

MR. HARVEY: O.K. That's what I thought he said.

EXAMINER POLLACK: Are you offering Resondent's Exhibit No. 58, Mr. Wells?

MR. WELLS: Yes.

MR. HARVEY: I would like a voir dire.

EXAMINER POLLACK: Yes.

[2594]

VOIR DIRE EXAMINATION

Q. (By Mr. Harvey) There could also have been other refusals that were never reported by the Union. Isn't that right also, Mr. Morse?

EXAMINER POLLACK: I take it for granted, Mr. Harvey, that the document shows only the number of steward calls and it shows on the number of refusals. It does not show any other information.

MR. RATNER: Mr. Examiner, that is not the point of Mr. Harvey's question.

EXAMINER POLLACK: Let Mr. Harvey repeat it then. I may have missed it.

MR. HARVEY: I don't know where you missed it, Mr. Examiner. My question was as far as Respondent's Exhibit No. 58 is concerned there could have been other refusals that were never reported to the Union and never grieved over.

MR. WELLS: And maybe they were never reported to the Company also.

EXAMINER POLLACK: Is that true, Mr. Morse?

THE WITNESS: As far as this document is concerned, Mr. Harvey, if there were refusals of stewards I am not aware of them and if the Union was aware of them the Union did not consider them a grievable matter.

Q. (By Mr. Harvey) You are not aware of them. Let's go into that, Mr. Witness.

Who conducted this study for you? A. This was conducted by personnel people who [2595] analyzed each and every grievance, each of the 2,048 grievances that are shown here and determined as per my instructions those where the statements on the grievance dealing with a refusal to call a steward and there were fourteen of those.

Q. The 2,048 are only as to grievances that were filed. That's the figure? A. They are each occasion on which a steward was called by an aggrieved employee.

Q. Did you instruct the people making this study to sent out a questionnaire to all your foremen as to the number of times they had denied an employee's request for a grievance? A. No, sir.

Q. You may not know but your foremen would know when they refused it, would they not? A. No, I don't believe so, Mr. Harvey. Any more than they would know whether or not the Union grieved about it.

Q. Well, Mr. Morse, are you telling me -- it is your testimony in connection with a foreman's refusal to supply a steward upon the request of an employee he would not know

when he refused it? A. I would say at the time it took place or at some subsequent time if we could refer him to it and refresh his recollection and it had not been grieved upon then perhaps he would know.

[2596] Q. This is my point. Was this a part of your study?

MR. WELLS: I object. This is argument.

MR. HARVEY: No.

EXAMINER POLLACK: He is asking how it was set up.

THE WITNESS: It was made up by a study of grievance activity, Mr. Harvey, which is kept by the personnel department.

Q. (By Mr. Harvey) Written grievances? A. No, any calling of a steward.

Q. Well, let me ask you this. Any time a steward is formally requested by a foreman are they required to call personnel and does personnel keep a record of it? A. They are required as you know from the SERM in the section dealing with personnel advisors asking there that the foreman is required to report this to the personnel advisor. It's in Section 215 of the SERM I believe. It describes the duties of the personnel advisor and consequently they do keep statistics at my request and at the personnel manager's request of the number of times and the subject matter about which employees grieve.

Q. So that the statistics that are reflected on Respondent's Exhibit 58 are statistics that are kept in the personnel department. Is that correct? A. Yes.

MR. HARVEY: I have nothing further.

[2597] EXAMINER POLLACK: Is there any objection to Respondent's No. 58?

MR. HARVEY: Yes, I object to it.

EXAMINER POLLACK: Overruled. Respondent's Exhibit No. 58 is received.

[Whereupon, Respondent's Exhibit No. 58 was received in evidence.]

[Whereupon, Respondent's Exhibit No. 58(a) was marked for identification.]

* * *

[2599] [Whereupon, Respondent's Exhibit No. 59 was marked for identification.]

MR. WELLS: Mr. Examiner, we have marked for identification Respondent's Exhibit No. 59, a document similar to Respondent's 58 except that this refers to the Hamilton Standard.

EXAMINER POLLACK: If you are offering that, Respondent's No. 59 is received.

[Whereupon, Resondent's Exhibit No. 59 was received.]

* * *

[2616] Q. (By Mr. Wells) Mr. Morse, are your foremen instructed with respect to the production of records in the grievance procedure? A. Yes, sir.

[2617] Q. Do they receive from day to day advice from the personnel department in settling grievances? A. Yes, sir.

Q. Would you tell us what advice and instructions the personnel deparment has given the formen with respect to the production of records in a grievance procedure?

MR. HARVEY: Objection.

EXAMINER POLLACK: Overruled.

THE WITNESS: The personnel advisors have been instructed that upon inquiry from a supervisor that the supervisor be reminded where there is a request for the production of records that the contract specifies that the production of those records are to be a determination of management at the second step of the grievance procedure.

And that these are not determinations for the foremen to make. However, it had

been agreed orally in negotiations that in the situations involving overtime records and attendance records the supervisor could, if he chose to, produce such records upon the request. That is the basis of the instructions.

The advisors were instructed by our office at the time that the Union went into a stereotyped demand on all of its rating grievances for the production of any and all records -- in other words, a total discovery procedure as opposed to the previous pattern --

MR. HARVEY: I object to the witness's characterization and move to strike it.

EXAMINER POLLACK: Denied. You may continue.

MR. HARVEY: It's a conclusion, Mr. Examiner.

EXAMINER POLLACK: I know that, Mr. Harvey.

THE WITNESS: The advisors were instructed to tell supervision that this did not represent what the contract called for and that they should avoid discussion of it and leave that to the second step where we would attempt to determine what was the nature of the Union's attack and this change in the approach.

We also instructed the second step of the grievance procedure, that is, the shop superintendent's office that they were not to acquiesce to a total demand for any and all records to be produced at the second step since this was not what the parties had agreed to. It was not what the contract specified and that we assumed that this could be nothing more than another attack on the employee performance rating system and was a device being used by the Union.

These are the instructions in summary that were given.

Q. By Mr. Wells) Did you discuss this problem from time to time with the Union officials at the various grievance procedures? A. Yes, we have.

Q. Could you tell us what the nature of these discussions were and what was said?

A. Generally, along exactly the same lines, an effort to try to determine what the Union was [2619] attempting to do. Their response in general was that there just had to be standards that existed in some fashion that they could physically get possession of in order to be able to be more objective in handling employee rating grievances.

The Company repeated what it had been saying in all negotiations dealing with automatic progressions versus employee performance rating that merit rating any place in the world is a subjective thing done by the rater based upon his observations whether it be for rate purposes, whether it be for any other kind of purposes, and that the standards that were referred to on the rating sheet, that is, the phrase standard of competency, were the standards set by the foremen and he and he alone could set them and they could change from day to day, from job to job and assignment to assignment.

We spent a great deal of time repeating this a great number of Union representatives. We spent a great deal of time urging them to have their stewards get from the employee specifically what it was that the employee objected to or denied was a fact that the supervisor had said.

For example, if the supervisor said that I have warned you, Cook, about being late for the job and I gave you an employee report. If the employee denies that this is a fact we urge the Union to ask for the employee report and we would happily produce it. But [2620] that we were not going to pervert that which had been in existence -- well, since it first appeared in the contract, in 1950 I believe but I am not certain of that.

We were not going to pervert the contract simply because of some legal or organizational purposes or preparation for negotiations that they had devised a new approach to the employee performance rating system and attempt to substitute for it automatic progression.

We gave examples of what should be done. We urged at forth step and we urged

at third step where an employee has even refused to hear an explanation of his rating from the supervisor that the grievance be remanded to a lower step of the procedure so that the foreman could explain why he had rated the employee the way he had. The Union refused such offers.

Even then, there have been cases when they did permit it and such re-explanations were made. There have been situations, but they have been extraordinarily few, in which they were remanded. The person was re-evaluated by the foreman and the rating was changed. These, too, are but a handful.

The thrust of the Company's discussions with the Union at all levels of the procedure has been that you appear to be making an attack upon the system, that you have no desire [2621] to bargain in good faith about it, that your approach is a legalistic one, that you have been advised apparently that in spite of the contract clause, in spite of the agreements, that suddenly it is possible and that the Company is going to acquiesce to a total discovery procedure which would obviously cripple the rating system and make it impossible to reasonably operate the plan.

* * *

[2625] Q. (By Mr. Wells) Have the merit rating grievances which you received from the Union in the past two years all contained the request such as in General Counsel's Exhibit No. 73? I quote, "that the foreman produce and turn over to the steward and myself all standards, records and methods he relied upon in making my merit rating." A. Yes.

Q. When the merit rating grievances begin to take on this type of stereotyped request?

A. Following the signing of the present contract and really starting as I recall in the fall of 1968 or early 1969.

MR. WELLS: Mr. Examiner, I am going to get into another subject now and that is the subject of passes.

Q. (By Mr. Wells) Mr. Witness, I have you what has been marked for identification

[2626] as Respondent's Exhibit No. 63 and ask you if this a section of the Supervisor's employee relations manual that is now in effect dealing with passes? A. Yes. It specifically deals with the guard pass, form No. 145A. It is an instruction to supervision in the use of it.

MR. RATNER: Mr. Examiner, I may be in error and if so I would like to be advised but I had been under the impression that the supervisor's employee relations manual was already in evidence.

EXAMINER POLLACK: It is. This is a convenient way to refer to it.

MR. WELLS: It's just so you don't have to look through the book to find it.

MR. RATNER: I'm not objecting.

EXAMINER POLLACK All right.

Q. (By Mr. Wells) Will you explain, Mr. Morse, why you have passes in the first place?

A. Basically, of course, we are a major defense contractor and therefore we are under security regulations of the federal government.

Additionally, we, like many other employers, have a great deal of proprietary information that we wish to protect.

Thirdly, as with any other large employer there are unfortunately occasionally a person [2627] who gets in your employ who steals or takes material out of the plant simply because the person doesn't really mean to steal but just doesn't consider it valuable and what difference does it make.

Thus, because material does have to move in and out of the plant and because there are a great number of visitors to the offices particularly there is a document called a guard pass.

They are issued upon proper authorization to certain individuals in the management organization. Those individuals are charged with the responsibility and the authority to make

a pass to either a non-employee or an employee upon which they are required to indicate the nature of the item and a general description of its contents.

They are also to secure the signature of the person to whom the pass is issued. Without getting into all of the clerical procedures that person cannot leave Company property without passing through a guard post, whether it be office or shop.

That person, or no person is permitted to pass a guard post without being subject to inspection whether he has a pass or lunchbox or briefcase or whatever. If he has a briefcase, if he has a tool box, if he has anything in his possession the guard will stop and ask him for his pass, other than a lunchbox, they are subject to a physical inspection.

[2728] The guard notes on the pass what is involved and he is instructed under his rules to examine it to determine that the item corresponds to what the pass says. If a pass says briefcase-purchasing papers and it is a briefcase he will look in the briefcase and satisfy himself that the two are compatible. Similarly a tool box, a package or whatever.

That pass of his is turned into guard headquarters and a copy of the pass made out by the authorizer is sent to guard headquarters and they are, as you will note, numbered. Every pass must be accounted for in this fashion to assure that every pass has been turned in and any that have not a search is undertaken to determine what happened to the pass.

The section that is pertinent to our discussion here is under 1(B) (1) (c) on page two of this section of the manual where it says the use of guard pass, form 145A, for employees must be issued when an employee takes out a package of any kind or tool box which must have been inspected by the department foreman or supervisor.

It is an absolute requirement on the part of the supervisor, for which he has been given the authority and responsibility to satisfy himself as to the contents of the package, briefcase, tool
[2729] box or whatever it may be for which he is issuing the pass. That may call for a personal

examination of it. That may call, and frequently does in the case of employees particularly Union stewards, a mere affirmation by the steward that he assures the foreman there is nothing in it except Union material.

That is a variation which is violative of public procedure but which occasionally happens. The procedure actually calls for his examining the material to see that it does not include a blue-print, an operation sheet or some other unauthorized material.

Q. Could you estimate how many such passes are issued at Pratt & Whitney? A. I know because I had a study made of it. In excess of 80,000 at East Hartford and in excess of 10,000 at Middletown for the year 1970.

Q. Do you know how many of those have been issued for Union officials who go in and out of the plant with Union material? A. A miniscule percentage of them because the requests are rarely made.

Q. (By Mr. Wells) Do you issue passes that are good for more than one exit from the plant? A. There is one classification of employees for whom this is possible. The maximum period is a month and then only the unexpired portion of the month. Thus, you can issue a pass [2730] for the month of July today because we are still in July but it is only good through July.

This type of pass generally is restricted to employee students who are enrolled in an apprenticeship program or a Company sponsored training program where the training is given on the premises and the employee has to take text books in and out. The pass would indicate student-text books.

That is the only time that they should be issued. Like everything else in a big organization occasionally supervisors err and issue them improperly.

MR. WELLS: I move that Respondent's Exhibit No. 63 is received.

MR. HARVEY: I have no objection.

EXAMINER POLLACK: Respondent's Exhibit No. 63 is received.

[Whereupon, Respondent's Exhibit No. 63 was received]

in evidence.]

* * *

[2734] CROSS EXAMINATION

* * *

[2740] Q. (By Mr. Harvey) As a matter of fact it is Company policy is it not, Mr. Morse, from your experience that the Union is required to produce facts from step one on that would show that the foreman was in error? A. The contract requires this, Mr. Harvey.

Q. The contract requires the Union to carry the burden of proof? A. The language of the [2741] contract says that the Union will set forth the details and the basis upon which employees grieve.

Q. If the Union presents no facts to the satisfaction of the foreman or Mr. Phelps now at step two the grievance is denied automatically, is it not? A. In the current situation I am sorry to report that it is almost that automatic because the Union refuses to do anything more than make a broad demand for any and all records and do not wish generally to discuss what the employee's allegations are.

Q. Are you telling me that they haven't asked you for facts upon which they can determine whether or not the foreman has acted properly? A. They have asked in the grievance procedure to produce records that they would examine and determine whether or not the employee had a valid complaint, but have refused, in the main, to tell us what it is that the employee objects to about his rating.

Q. It is Company policy isn't it, Mr. Morse, to require the Union to go forth with facts to substantiate their grievance and prove the foreman is incorrect? A. The contract calls for that.

Q. As a matter of fact back when you were sitting at the various steps you told various Union representatives that you were not going to make a case from them. If they didn't have any [2742] facts you were going to deny grievance. Isn't that true? A. I expect that I said something to that effect probably.

Q. That was well before 1969, wasn't it Mr. Morse? A. Yes. And it would not be limited to merit rating grievances where it was said. I have indicated that I am here to hear what it is that you have to say and the employee has to say in connection with his alleging that he has been mistreated in some way.

* * *

[2789] GORDON SAWYER

was called as a witness by and on behalf of the Respondent, and having been duly sworn, was examined and testified as follows:

[2789] DIRECT EXAMINATION

Q. (By Mr. Wells) Will you give the Reporter your name and address? A. Gordon Sawyer. 42 Hockanum Drive, East Hartford, Connecticut.

Q. I believe you are president of District 91 of the International Association of Machinists? A. That's correct.

Q. How long have you held that office. A. Since February of 1970.

[2790] Q. And before that did you hold office? A. With Local Lodge 1746.

Q. What office did you hold with them. A. The office of vice-president and president.

Q. You were president of Lodge 1746 during what period? A. From October of 1969.

Q. And you are at present? A. Yes.

Q. You are still president of Lodge 1746? A. Yes.

Q. And also president of District 91? A. That's correct.

Q. And you were vice-president of Lodge 1746 during what period? A. January- of 1965 to October of 1969.

Q. And prior to that did you hold an office with the Union? A. No.

Q. You were a steard? A. Yes.

Q. How long were you a steward? A. On two different occasions. I believe from September of 1958 to December of 1959 was one period. The next period was February of

1961 to August or September of 1961.

* * *

[2805] Q. (By Mr. Wells) Mr. Sawyer, does Lodge 1746 of District 91 or the other unions which are members of District 91 conduct training courses for stewards? A. Yes. The local lodge does.

Q. You mean each local lodge conducts its own training course? A. Yes.

Q. Who is in charge of these training courses? Any one person? A. Normally the business representative assigned to that lodge. I say normally. It could happen where one rep [2806] could cover all four lodges.

Q. How has it been done in the past year or so? A. Both ways.

* * *

[2807] Q. (By Mr. Wells) Mr. Sawyer, have you ever attended any of the steward's classes? A. Yes, sir.

Q. Are you aware of the instructions and education that is given stewards with respect to merit rating grievances? A. I am.

[Whereupon, Respondent's Exhibit No. 65(a) was marked for identification.]

Q. (By Mr. Wells) I hand you what I have marked as Respondent's Exhibit No. 65(a) which is a document you have produced and ask you if that is not a written instruction which you advise your stewards to give to employees who are contemplating filing a merit rating grievance?

* * *

[2808] THE WITNESS: I believe this is a questionnaire that is used in Lodge 743 but not recently. Some time back.

EXAMINER POLLACK: May I see the document, Mr. Wells.

Q. (By Mr. Wells) Is it your testimony, Mr. Sawyer, that this document wasn't used by Lodge 1746 or Lodge 700? A. At some time or another portions of this have been used. Not in the form that you have handed it to me.

Q. This is the form which you handed to me, Mr. Sawyer. A. As I stated it was used by Lodge 743 in its present form. I am sure 1746 and 700 have used portions of it at times.

Q. Explain to me how it was used. How you instructed the stewards to use this.

A. Our instructions to stewards are that they should check the merit rating. Once a merit rating is produced by a foreman to ask him what standards -- how did you rate him. What the letters mean and carrying it on further, as to what he must do to get to top rate. And if he doesn't understand what the foreman has given him then, then he is to request a shop [2809] steward.

Q. Weren't they told to say that after the foreman had explained to him what he had to do to get to top rate then he is supposed to say, and I quote from your document, "I don't understand much more than I did before." A. Yes. You are quoting that. Yes.

Q. Isn't that what they instructed the employees to say? A. Yes. If they don't get the standard, how the foreman rated him then how does he understand it.

In other words, all they are receiving from the foreman is five letters. How did he arrive at those five letters.

Q. Didn't he get an explanation from the foreman about what he will have to do to get a higher rate? A. Generally the only explanation he gets is you're doing good but you will have to do better. Specifically what he needs, this information he is lacking.

* * *

[2809] Q. (By Mr. Wells) Anyway, this is the suggested procedure for an employee to follow before he calls a steward about his merit rating isn't it? A. Yes.

Q. Were the stewards instructed to tell the employees to do just exactly as you have outlined here? A. Yes, sir.

[2810] MR. WELLS: I ask that 65(a) be received in evidence.

MR. HARVEY: I have some voir dire on it.

EXAMINER POLLACE: All right.

VOIR DIRE EXAMINATION

Q. (By Mr. Harvey) Mr. Sawyer, in attempting to comply with the subpoena that was served on you as president of District 91 did you receive this at your request? A. Yes, I did.

Q. Where did you receive it from? A. George Bursell.

Q. From District Lodge 743? A. Yes.

Q. Does Lodge 1746 or Lodge 700 use specifically this? A. That form?

Q. Yes. A. No.

* * *

[2811] Q. (By Mr. Harvey) During your examination with respect to the document, Respondent's 65(a), you testified that some elements were used by Lodge 1746 and 700. A. Yes.

Q. Which particular ones were used. That's the question. You can just go down and read the ones that were used. A. The parts that were used in 1746 were what standard did you use then rating, and I'm not quoting.

Q. Yes. A. What do the letters mean -- we've used that.

Q. Go ahead. A. We've also used the portion, "what must I do to get to top rate."

Q. Now, when you say used was it used in connection with your stewards or in connection with employees. A. It was the stewards instructions.

Q. Do you have any such form with the parts that you used for the stewards instructions in your records of Lodge 1746 and 700? A. No.

Q. Do you know who devised Respondent's 65(a) for identification? A. No, I don't.

Q. Does Mr. Bursell know. Did he tell you? A. I believe he said it's been in use for [2812] so long he doesn't even know where it originated from.

Q. But Lodge 1746 and Lodge 700 have never used it as such? A. Right.

EXAMINER POLLACK: Respondent's Exhibit No. 65(a) is received.

[Whereupon, Respondent's Exhibit No. 65(a) was received in evidence.]

Q. (By Mr. Wells) Let me ask you this, Mr. Sawyer. Is it your testimony that Respondent's Exhibit No. 65(a) was never given to stewards of Lodge 1746 or Lodge 700 just as it is? A. Not to my recollection.

Q. Well, is there something similar to this form that was given to them? A. There was a questionnaire that has been used. Essentially it is about the same thing.

* * *

[2816] [Whereupon, Respondent's Exhibit No. 65(c) was marked for identification.]

Q. (By Mr. Wells) Mr. Sawyer, I hand you what has been marked for identification as Respondent's 65(c) entitled Merit Rating Grievance and ask you if this is the standard form of grievance which you have instructed your stewards to file on behalf of an employee who [2817] is filing a merit rating grievance?

MR. HARVEY: I object to the point of the question. The witness may just answer what it is.

EXAMINER POLLACK: May I see the document.

THE WITNESS: Yes.

EXAMINER POLLACK: You may answer the question. Is this a standard form used for employees?

THE WITNESS: Yes.

Q. (By Mr. Wells) How long have you been using that form? A. Since approximately 1968.

Q. MR. WELLS: I move Respondent's 65(e) be received in evidence.

MR. HARVEY: Is Respondent's 65(e) still in use?

THE WITNESS: Yes.

EXAMINER POLLACK: Respondent's 65(e) is received in evidence.

[Whereupon, Respondent's Exhibit No. 65(c) was received in evidence.]

[Whereupon, Respondent's Exhibit No. 65(d) was marked for identification.]

* * *

[2834] [Whereupon, Respondent's Exhibit No. 67 was marked for identification.]

Q. (By Mr. Wells) Mr. Witness, I hand you what has been marked Respondent's Exhibit No. 67 for identification a document of five pages entitled Definitions of Performance Rating Factors for Hourly Employees and ask how long you have had that document and where you obtained it.

EXAMINER POLLACK: What is the relevance of this, Mr. Wells?

MR. WELLS: The same relevance, Mr. Examiner.

[2835] EXAMINER POLLACK: You may explain. How does it differ from Respondent's Exhibit 66?

MR. WELLS: It's a different document in the first place.

EXAMINER POLLACK: Insofar as the issues in this case are concerned.

MR. WELLS: It shows or will show the Union's complete understanding of each factor and the manner in which the system called for the rating to be made. It's just that simply.

MR. HARVEY: I object to it.

EXAMINER POLLACK: The objection is sustained. Respondent's Exhibit 67 is rejected and may go into the rejected exhibit file.

[Whereupon, Respondent's Exhibit No. 67 was rejected.]

MR. WELLS: May we establish that the Union had it and were aware of it?

EXAMINER POLLACK: Yes. You may do that.

MR. WELLS: It is something they produced so I assumed it was something that had read and were familiar with.

THE WITNESS: Yes. This is a document we have devised in an attempt to try to understand the merit rating system and trying to make it work. I believe this is in, either in excerpts or in total, in the employees manual.

[2836] EXAMINER POLLACK: I believe that is sufficient explanation, Mr. Sawyer.

MR. WELLS: I move it be received.

EXAMINER POLLACK: It has been rejected and will go into the rejected exhibit file if you so desire, Mr. Wells.

MR. WELLS: I do desire.

MR. RATNER: I have one question. You said employees manual. Do you mean

the supervisor's -- SERM?

THE WITNESS: You are correct.

[Whereupon, Resondent's Exhibit No. 68 was marked
for identification.]

* * *

[2846] Q. (By Mr. Wells) Isn't it true that sime that time in 1968, since that time the Union has consistantly refused the Company's offer to remand these grievances to the foreman for a discussion with the employee, an explanation to the employee or to send it back to the foreman so he could rerate it? A. Yes. This position has been changed. When we found out the Company was not living up to their agreement that it was a farce to send it back. In many instances the fellow only gave the employee what he had given him before and made general statements about it. It was just a waste of time to sent it back and getting the hopes of the employee up.

EXAMINER POLLACK: Did you change your position on remand? When?

[2847] THE WITNESS: I believe it was some time in 1970. I am going to add too that whenever the offer is made, and sometimes it could be made from either side of the table to remand the grievance back to the first step we have asked that the steward be present where there is a discussion between the foreman and the employee and this has always been denied.

This is the reason that we have changed from -- just having it remanded back to the first step for a more thorough discussion which to my knowledge has never taken place yet. We requested a steward to be present and it was denied.

Q. (By Mr. Wells) Do you recall in 1969 participating in a grievance with Mr. Sherm

at the third step where he offered to send it back to the foreman to rerate the man and that you refused to do so unless Mr. Sherm would assure you that the rerating would give him a higher rating. A. The grievance that I believe you are referring to the offer was made to have it sent back and be rerated. During our discussion certain things were brought out which led me to believe that the employee could end up with a lower rating.

Q. Didn't you say that you would only accept the remand if the employee would be given a higher rating. That is the question, Mr. Sawyer. Do you recall that?

[2848] MR. HARVEY: I object. I believe he's answered the question. May we have what this grievance is so that we can be enlightened too?

EXAMINER POLLACK: No. Can you answer the question. Did you insist that if the thing be remanded that it only be for a higher rating?

Q. MR. WELLS: Not only for a higher rating but also that Mr. Sherm would assure you that the rating would be higher. A. This was the object of grieving the rating in the first place.

EXAMINER POLLACK: Did you say that you would accept the remand only if you were given assurances that the man would be given a higher rating?

THE WITNESS: I believe I did.

Q. (By Mr. Wells) And Mr. Sherm wouldn't agree with that, would he? A. That's correct.

* * *

[2922]

ROBERT ZIELINSKI

was called as a witness by and on behalf of the Respondent and having been first duly sworn, was examined and testified as follows:

* * *

[2922]

DIRECT EXAMINATION

Q. (By Mr. MrGuinn) Would you state your full name for the record? A. Robert Zielinski.

* * *

Q. What is your address. A. 20 Sisson Street, East Hartford.

Q. By whom are you employed? A. Pratt & Whitney Aircraft, Middletown plant presently.

Q. How long have you been employed by the Company? A. Five years and nine months.

[2923] Q. What is your current job? A. I am a budget analyst.

Q. How long have had you had that position? A. Since February of 1971.

Q. Before February of 1971 what was your position? A. I was an assistant foreman.

Q. How long were you an assistant foreman? A. From September of 1969 until January of 1971.

Q. And before September 1969 what job did you have? A. I was an instructor in technical training, a power plant trainee and an assembler in East Hartford.

* * *

[2925] Q. Again, directing your attention to that first week in December of 1970 I will give you the names of seven employees: Alivera, Gould, Fisher, Macnamara, Eustis, Esslinger and Gougemont and I want to ask you which of those seven people had been working for prior to that first week in December. A. Paul Gougemont, Pete Eustis, Jim Fisher and Frank Macnamara worked for me from September.

Q. What about the other three? A. The other three first worked for me in the first

week of December.

Q. Prior to that for whom had they worked? A. Curt Chase was their foreman and Lloyd McDonald was their assistant foreman.

Q. What happened to Chase and McDonald? A. Both those men were sent to the test area.

Q. So that during that first week in December of 1970 how many employees did you have under you? A. Would you repeat that?

A. In that first week in December how many employees did you have under you?

A. I had twenty.

Q. Is that a lower or higher number than the usual? A. That is an unusually high number for an assistant foreman.

Q. Now, I want to direct your attention specifically to Wednesday, December 2 of 1970. Do you recall any discussion that you had with employees Alivera, Gould? A. Yes, I did.

Q. What was the first discussion that you had? A. It was with Alivera. He approached me about 1:20 that afternoon. He said that he wanted to see a shop steward. I asked him what the problem was and he said that he didn't dig who rated him. He wanted to talk to a shop steward and not me.

Q. What did you do after that? A. I contacted personnel and informed them that Mr. Alivera would like to see a shop steward and they said they would send one to the area.

Q. Who was the personnel advisor you contacted? A. Tom Powers.

Q. By the way, before December 2, 1970 had you ever had a grievance before?

[2927] A. No, I didn't.

Q. Did you ever have a request for a shop steward? A. No.

Q. After your conversations with personnel did a steward arrive? A. Yes.

Q. Who? A. Warren Lee.

Q. Before Mr. Lee came over did anything else happen? A. Yes. Just a few minutes later another employee, Don Gould, approached me and said he would like to see a steward also.

Q. A few minutes later than what? A. Later than the 1:20 time that Mr. Alivera approached me.

Q. What was your conversation with Gould? A. He said he would like to see a steward also. When I asked him what his problem was he was a little hesitant at first to tell but then he said he wasn't happy about his rating. It had remained the same for two years. He said he was paying Union dues and he wanted the steward to handle this.

Q. What did you do when you got the second request? A. I contacted personnel again and talked to Mr. Tom Powers and told him that Mr. Gould would like to see a steward and he hadn't contacted Warren Lee at that time but Warren could handle both grievances [2928] at the same time.

Q. Did Mr. Warren Lee ultimately arrive? A. Yes, he did.

Q. What time was that. Do you recall? A. It was about 2:00 in the afternoon when he arrived.

Q. What did he do when he came to the department? A. He introduced himself to me and I introduced myself to him and he talked with Aliveria for about fifteen minutes.

Q. What did he do after he talked to Alivera? A. He came back to me and he said to me, well you're new at this and at that time I told him I was the only supervisor in the area and he would have to discuss these with me.

Frank Wraight had rated these people. Frank had rated these people and Warren said he would like to see Frank's records and he mentioned the absentee book and I told

him I didn't think this would be possible.

So he said well, I'd like to see Frank Wraight and I said I didn't think this would be possible either. He said that he would then go back and see his own supervision and make arrangements to see Frank Wraight through them.

Q. Did he give you any- reason why he wanted to see Mr. Wraight? A. Yes. He said that since Frank had rated them he wanted to speak with him.

[2929] Q. Where was Frank Wraight at this time? A. He was in the assembly section of building 220.

Q. Do you recall what the rating period was for Alivera? A. I think it was 2-16 to 8-31.

Q. For 1970? A. 1970. Correct.

Q. MR. RATNER: I'm sorry. I didn't get those two dates.

EXAMINER POLLACK; February 16 to August 31, 1970.

Q. (By Mr. McGuinn) Was there anything else in this conversation regarding Alivera? A. After he said that he wanted to speak with Frank I told him again that this wouldn't be possible because he would have to discuss this with me because at the present time these men were working for me and no longer working for Frank Wraight.

Q. All right. What happened after your discussion with Mr. Lee concerning Mr. Alivera? A. I informed him that Mr. Gould would like to speak with him and he talked with Don about eight minutes.

Q. After he spoke with Gould what happened? A. He came back to me again and because Frank Wraight had rated these people we had basically the same conversation as above.

Q. Did you see Mr. Warren Lee on these two grievances at a later time? A. Yes.

[2930] December the 7th at the first step disposition.

Q. Before that first step disposition on December the 7th had any other employees approached you with a request for a shop steward? A. Yes. On December 3 about 8:45 Frank Macnamara approached me and said he would like to see a Union steward about a rate.

Q. What did you do with that request? A. I contacted personnel and talked to Tom Powers. I told him that Macnamara would like to see a Union steward and wanted to discuss it with a steward and not with me so Tom Powers said he would send one to the area.

Q. Before Mr. Lee came to the area did anything else happen? A. Yes. It was about 9:30 when Jim Fisher approached me and said he wanted to see a steward. I asked him what his problem was and he said he wasn't happy about his rating and wanted to talk to the steward and not to me.

Q. What did you do after he discussed this matter with you? A. I contacted Tom Powers in personnel again and told him that Jim Fisher would like to see a steward now and he said that Warren Lee would be out and he could handle both grievances while he was there.

Q. Did Mr. Lee ultimately arrive? A. Yes, he did.

[2931] Q. Do you know about what time that was? A. It was after 10:00 o'clock when he arrived.

Q. What happened when he arrived? A. He talked with Frank Macnamara for about ten minutes then he came back to me.

Q. Did you have a discussion at that time? A. Yes, we did. I asked him what Frank's problem was and he said that he wasn't happy with his rating and he wanted to speak to the foreman of the area but we had no foreman so I told Warren that I was the only supervisor and he would have to discuss this with me and this is when he said that our

conversation would be under protest.

I again asked him what Frank's problem was and he said he wasn't happy with the rating and he wanted to know if there were any written standards and I told him, no, none that I knew of.

Then he said I want to see foreman Wraight's records. This is when I told him I think that it is up to Macnamara to substantiate the grievance and we got into a little discussion on whether the Company or the Union would have to show whether the rating should be higher or not.

Q. What, if anything, did you say to his requested that he wanted to see foreman Wraight's records? A. I told him this would not be possible.

Q. Did he specify what records he was looking for? A. No. Just records in general.

[2932] Q. Was there anything else to this conversation? A. He again went back to the standards. He wanted to know what standards were used and I told him that foremen rate by their own standards.

Q. Did he say anything to that? A. No, he didn't.

Q. What happened after this conversation? A. I informed of Fisher's request to see him also.

Q. Did he then speak with Mr. Fisher? A. Yes. He then talked with Fisher for about ten minutes also.

Q. After he spoke to Fisher what happened? A. He came back to me and I asked him what was Fisher's problem and he said that Jim was not happy because he was rated lower in use of working time two letters. He went from a G to an E.

Then he said before we could discuss it any further he said that since I didn't rate these people I wouldn't be able to answer his questions and this discussion ended there.

Q. Were there any more requests for shop stewards on December 3? A. Yes. Right after lunch about 12:30 Paul Gougemont approached me and said he would like to see a steward. I asked him what the problem was and he said he wouldn't discuss it with me. He would only discuss it with the steward.

Q. What did you do then? A. I contacted personnel again and talked to Tom Powers and told him that Paul would like to see a steward. He said he would send Warren Lee out.

Q. Did Mr. Lee arrive? A. Yes. He came at about 1:20 or 1:30.

Q. What happened when he arrived? A. He arrived and went and talked with Paul for about ten minutes and then he came back and saw me.

Q. Did you have a discussion with Lee about Gougemont at that time? A. Yes, we did. I asked him what Paul's problem was and he told me that Paul wasn't happy with his rating. I told Warren of a discussion that Bill Robert and myself had with Paul on December the 1st and at that time Paul indicated to us that he was satisfied with his rating and as a matter of fact he thought he was overrated.

So I told Warren I can't see it. At that time he was satisfied and now he isn't.

Q. What did he say to that, if anything? A. He didn't reply to that. He asked me if I used the bell shaped curve when I rated employees and I told him no, I did not.

Q. Was there anything more to this meeting? A. No. The discussion was short.

[2934] Q. Did you later meet with Warren Lee on the three grievances that were filed on December 3? A. Yes, I did.

Q. What dates? A. December 7 for Mr. Fisher and Mr. Macnamara and December the 8th for Paul Gougemont.

Q. Before this were there any more requests for shop stewards later in the first week

of December? A. Yes. December 3.

Q. I think we just finished December 3. A. I'm sorry. December 4. There were two more grievances on December 4. Keith Eustis and Steve Esslinger.

Q. And which was the first of those? A. Keith was the first. About 8:15 he saw me and said he would like to see a steward so I asked him what the problem was and he said he was unhappy about his rating, that he was one point lower than his previous rating.

So I tried to explain to him that the previous rating had absolutely nothing to do with his present rating. That his present rating was based on his past performance for the six month period. This rating was done in the eyes of his foreman.

He then made the comment that he didn't think his foreman could see too well.

Q. After you had the discussion what did you do? A. I contacted personnel and told [2935] them that Keith would like to see a steward and Tom Powers said that he would send Warren back to the area.

Q. Did Mr. Lee return to the area? A. Yes. Warren came about 8:45.

Q. What did he do when he came to the department? A. He talked with Keith for about fifteen minutes.

Q. After his discussion with Mr. Eustis did he have a discussion with you? A. Yes. He came back to me and informed me -- well, he asked me if there was a foreman in the area and I said no, that I was still the only supervisor there so he informed me again that our meeting would be under protest.

Q. Did you have a discussion with him? A. Yes. I asked him what Keith's problem was and he said that Keith was unhappy because he was rated one point lower than what his previous rating was.

Lee asked me how do we determine the facto of cooperation. But before we could

discuss it Warren said you didn't rate any of these people so you wouldn't be able to answer any of my questions and we were at a stalemate.

Q. Did he ask for a grievance form or two grievance or what? A. He asked for two grievance forms. One was Keiths grievance and the other one was because he indicated to me that he felt the Company was violating the Union contract in not putting forth an earnest effort to resolve these grievances.

[2936] Q. Was there anything more to that conversation? A. No, sir. Not that I can remember.

Q. When was the second request for a shop steward on December the 4th? A. This was for Steve Esslinger at about 9:30. He requested to see a steward also.

Q. Did you have any discussions with Mr. Esslinger at that time? A. Yes. I asked Steve what his problem was and said, Bob, it's nothing personal but I just want to talk to the steward.

Q. What did you do then? A. I contacted personnel again, Tom Powers, and I told him that Steve would like to see a steward so Tom tole me he would send Warren back to the area.

Q. Did he again return to the area? A. Yes. He came back. It was after 10:00 o'clock when he arrived.

Q. What did he do when he got to the area? A. He again asked me -- well, he talked with Steve first for ten minutes or so.

Q. Then did he have a discussion with you? A. Yes. He asked me if there was a foreman in the area and I told him again that I was the only supervisor there so he would have to talk with me and he informed me that this discussion also would be under protest.

[2937] A. Was there any other discussion? A. Yes. He wanted to know if personnel

knew of his protest and I told him yes they did. I informed him of it since I was the only supervisor there so I had the authority to handle these grievances.

Q. Did he say anything about Esslinger in this meeting? A. Yes. He said that he felt that Esslinger's rating was unfair because there was some friction between Esslinger and the foreman, Curt Chase.

MR. HARVEY: Who?

THE WITNESS: Esslinger and the foreman, Curt Chase.

Q. (By Mr. McGuinn) What, if anything, did you say to that? A. I told him I knew of no friction between the two.

Q. Was there anything further to this conversation? A. Not that I can remember.

Q. When was the next time that you had contact with these two grievances? A. December the 7th.

Q. Going to December the 7th what grievances did you discuss with whom on that day?

A. We discussed six of the seven grievances that day. Paul Gougemant was absent so we discussed his the following day..

[2938] MR. RATNER: What do you mean by we?

THE WITNESS: Warren Lee and myself.

Q. (By Mr. McGuinn) How did it happen that Mr. Lee came over to your area on the 7th? A. That was the five days after the first rating was put in.

Q. What was the purpose of the meeting on December the 7th? A. They had five days in which to present this in writing or thrown out the grievance. He presented me with written grievances on that day.

A. For the six of the seven employees? A. Yes, sir.

Q. When he presented the grievances to you did you have any discussion with him

about the grievances? A. We did. He talked with Gould and later came back and he had asked me if I discussed these rating with the rating foreman, Frank Wraight. I said that I had and Frank was satisfied with the way the ratings were.

Q. Was there anything else about Gould? A. He did again at this meeting inform me that the meeting was under protest.

Q. Was it the same day that the other five grievances were discussed? A. All five grievances were under protest. Yes.

[2939] Q. Did you have one continuous meeting where all these were discussed or was there a break in between? A. No. These were handled separately but the basic conversation on all the grievances were the same.

Q. What was the basic conversation on all the grievances? A. Warren had asked me if I had discussed the rating with the foreman and I told him yes and he was satisfied with it. He wanted to know when I discussed this with the foreman if I discussed the foreman's standards and I told him all we discussed was the rating.

Q. What about the seventh grievance of Gougemont. Did they ever present a grievance on Gougemont's case? A. He came back on December 8 and talked with Paul and he came back and presented me with a written grievance.

Q. At that time did you have any discussion with him about that grievance? A. Yes, I did. Again, I asked him about the conversation that we had previously had with Paul and his telling us that he was satisfied with the rating and now Paul was putting in the grievance.

Then we got into another discussion whether it's up to the Company or up to the Union to show whether these ratings should be higher. I also told him at that time that I didn't feel he was representing these people in good faith because the grievances were identical. They all presented the same thing when each one of these individuals presented a different

[2940] statement as to why he was grieving yet everything here was stereotyped. I told him that I didn't feel he was handling it in good faith.

Q. What, if anything, did he say to that? A. There was no reply at all.

Q. Did you say anything else to him? A. Yes, I did. I told him that the men were always complaining about the lack of communication between supervision and employees.

When the opportunity is there and they should take advantage of it they chose not to do so.

Q. Was there anything else in this discussion? A. I also told him that I felt more could and should be handled at first step.

Q. Now, did there come a time when you made a disposition of these grievances?

A. Yes. On December 14th.

Q. Did you dispose of all of them on that day? A. No. Again, we disposed with six of the seven but Gougemont's was on the following day.

Q. At that time, on December 14, did you discuss the six grievances all at one time or were they handled separately? A. They were handled separately.

Q. Was the substance of the discussions that you had with Lee in disposing of these grievances similar? A. They were similar except that as each grievance was presented to me I had a separate comment for each one.

[2941] Q. What was the general substance of the conversation with respect to all of them?

A. I had asked Warren if he had any information to support his grievances and he told me that he hadn't. I told him again that I had checked these ratings with the rating foreman and he had told me that he thought these ratings were fair so I had no alternative but to deny the grievances.

Q. You say you had separate comments about each employee. What were those separate comments? A. Well, Gould for example. He told me that he was unhappy because

he stayed at the same rate for two years, yet what was discussed with me was how would the rating be handled if he worked on a different job and the grievance said that he wanted to be rerated in all factors.

Fisher, he related to me Warren also that he was only unhappy about a portion of his rating and yet when the grievance came to me it said that he wanted to be rerated in all factors.

Now, Eustis, he was unhappy because of the one point and the rating said that he wanted to be rerated in all factors. Three of the five factors were already rated R.

Esslinger, he said there was friction between he and the foreman and when I checked with Curt Chase he said that he went out of his way to help this man and his rating showed that cooperation was the highest factor that he was rated in.

[2942] Q. Did you make these statements to Mr. Lee on December the 14th? A. Yes. As the grievances were presented to me I made the statements at that time.

Q. And did you make a disposition of the grievances on that day? A. Yes. I denied the grievances on that day.

Q. And did you make a disposition of the Gougmont grievance at a later date? A. Yes. The following day Warren came back to the area --

Q. The 15th? A. Yes. Warren came bac, to the area and again I told him -- this particular grievance was puzzeling me because of the conversation that we had.

Q. Which conversation? A. The one on December 1st when Paul stated that he was happy with his grievance -- I'm sorry, happy with his rating and he thought he was overrated. I denied that grievance on the 15th.

* * *

[2943] Q. (By Mr. McGuinn) During any of these discussions that you had with Mr. Lee

during this period from December 2 to December 15 did you ever tell him that you couldn't tell him anything about the ratings in question? A. No. I did not.

Q. During the disposition of these grievances on December 14 and 15 did Mr. Lee ever request any records that the foreman used in rating? A. He mentioned the word records, yes.

Q. Did he ever specify what records? A. No, he did not.

[2944] [Whereupon, Respondent's Exhibit No. 71 was marked for identification.]

Q. (By Mr. McGuinn) I show you what I have marked as Respondent's Exhibit No. 71 and ask you if you can identify what that document is. A. Yes. This is the grievance filed.

Q. For whom? A. Donald Gougemont.

MR. MCGUINN: I move its admission.

MR. HARVEY: No objection.

EXAMINER POLLACK: Respondent's No. 71 is received.

[Whereupon, Respondent's Exhibit No. 72 was received in evidence.]

MR. MCGUINN: I have a whole series of grievance forms that I would like to introduce at this particular time.

EXAMINER POLLACK: Those are the grievance forms for the other six employees?

MR. MCGUINN: Yes, they are.

MR. HARVEY: We have no objection.

MR. RATNER: We will stipulate to them.

EXAMINER POLLACK: All right. Respondent's Exhibits 72 through 77 are received.

[Whereupon, Respondent's Exhibit 72 through 77 inclusive were marked for identification and received in evidence.]

* * *

[2951] CROSS EXAMINATION

* * *

[2957] Q. When you called personnel did they tell you how to handle this interview with the steward? A. Yes, they advised me.

Q. What did they tell you? Q. They told me that if he wanted to see the foreman that I was the supervisor in charge now and he would have to talk to me.

Q. What did they say about records? A. They didn't say anything about records at [2958] that time.

Q. Did they at a later time? A. After I talked to them, yes.

Q. Relative to what? After you had talked to Lee? A. Right.

Q. What did they say about records at that time? A. They said we wouldn't supply records and Lee had made the statement at that time that he would get them at second step.

Q. Did they tell you why you were not to supply the records? A. No.

Q. And you reviewed the merit ratings of all these employees with the various foremen going over their notebooks and going over the basis of the standards that they used, did you not Mr. Witness, and determine that they were all fair? A. I went over the ratings with the foremen. I didn't discuss their standards.

Q. But you made a determination that they were all fair. Didn't you put that down on the disposition? A. I put that down, yes.

* * *

[2960] Q. O.K. Mr. Witness, I show you what is in evidence as Respondent's Exhibit No. 71 and I ask you whether or not this is the actual grievance that you handled in

connection with Donald Gould. A. It has my name on it.

Q. And you read that grievance, the typewritten aspect of it before you -- A. When I signed it. yes.

Q. Does this refresh your recollection under remedy requested is says, "That my foreman produce and turn over to the steward and myself copies of all standards and records that he relied upon in making the above rating."

Does that refresh your recollection? A. Yes.

Q. Did you discuss that with him? A. Warren Lee?

Q. Yes. A. No.

Q. Did you mention to Mr. Lee in the course of discussing the grievances that the people had not come to you first and asked about them? A. Not in all. I believe I did on the first couple.

[2961] Q. This is before the disposition at the first step when you first talked to him?

A. Yes.

Q. (By Mr. Harvey) You testified that you said to him (Lee) in the course of discussing one of them (grievances) and I'm not sure which one it was. Perhaps you can enlighten me. That you are at an impass. That you can't go any further. It's a stand-off I believe was your word on direct examination. A. I don't believe I said that.

Q. Was it part of your discussion? A. I believe on one of them where Warren said that. Yes.

Q. What was the conversation leading up to that. Would you describe that? A. I believe that one was with Keith Eustis. He had wanted to know about the cooperation factor and how it was determined and before we could discuss it he mentioned that since I hadn't rated the man I wouldn't be able to give him any answers and we were at a stalemate.

Q. Did you agree with him? A. No. I told him I was the supervisor there and he could ask me any questions he wanted to.

Q. Were you in any position to answer any of the questions he had with respect to the cooperation of this man? A. He didn't ask me any questions.

Q. Did you tell him in the course of these discussions at the first step that you felt it was up to the employee to show the rating was wrong and not to you to show how it was [2962] right? A. I believe I mentioned that yet. Yes.

Q. Was this a statement told to you by personnel or was this your own idea? A. This was mine.

Q. Did you discuss that with personnel afterwards relative to the conversation that you had with Lee? A. I discussed with personnel what went on. Yes.

Q. Did you fill out a memorandum as to what went on? A. Yes, I did.

Q. Did you bring that with you? A. No, sir. I didn't.

MR. HARVEY: I would like to have that produced, Mr. Examiner.

MR. MCGUINN: Mr. Examiner, in the first place I don't see the relevancy. This is precisely the background -- the raw material that goes into the background of the grievance. The Board has already ruled --

MR. HARVEY: I beg to differ with Mr. McGuinn. I believe the background of grievance we have very clear testimony that it was shared by the personnel advisor after talking with the foreman.

This is a memorandum that I called for under the subpoena. A transmittal memorandum relative to the filing of these grievances and I think I am entitled to see it.

[2963] EXAMINER POLLACK: I think we had testimony to the same effect that such statements were made to the Union at the second step. I think we had testimony that

Mr. Phelps at the second step of the grievance procedure at times told the Union that it was up to the Union to substantiate its position before the Company was obligated to produce records.

MR. HARVEY: Yes, sir.

EXAMINER POLLACK: What would the production of this record add to this proceeding?

MR. HARVEY: I think it would add a great deal to what happened. It's a terribly complex situation.

EXAMINER POLLACK: The objection is sustained.

* * *

[2968] CHARLES SAVARESE, JR.

was called as a witness by and on behalf of the Respondent, and having been first duly sworn, was examined and testified as follows:

* * *

[2968] DIRECT EXAMINATION

Q. Would you state your full name for the record? A. Charles Savarese, Jr.

* * *

Q. What is your address? A. Box 63, Canterbury, Connecticut.

Q. By whom are you employed? A. Pratt & Whitney.

Q. At what plant? A. Middletown.

Q. How long have you been employed by Pratt & Whitney? A. Five years, seven months.

Q. What is your current job? A. I am a foreman.

* * *

[2970] Q. Do you recall a merit rating grievance filed on behalf of Edith Barnes?

A. Yes.

Q. Do you recall what date that was? A. October 19, 1970.

* * *

[2971] Q. What happened then? A. She came to my desk and requested that I get her a Union steward.

Q. What did you do? A. I contacted my general foreman, Mr. Forest. I told him of the fact that I had an employee who was requesting a steward and then I contacted Mr. Cryer in personnel and requested that he set up an appointment.

Q. What did Mr. Cryer say? A. He made arrangements for the steward to come to my area.

* * *

[2972] Q. And who was the shop steward that arrived? A. Mr. Gaskins.

Q. What happened when Mr. Gaskins arrived. Did you have any conversation at that time? A. He came to my desk and I told him that Mrs. Barnes had requested that he be called. I asked him to wait at my desk and I went and got the employee.

Q. After you got the employee what happened? A. I then gave Mr. Gaskins and Mrs. Barnes an area where I considered they could have as much privacy as possible so they could have their discussion.

Q. Did they have a discussion? A. Yes, sir.

Q. How long did that discussion last? A. Approximately twenty-five minutes.

Q. And after their discussion ended what happened? A. Before the discussion had completely ended Mr. Gaskins came and requested a grievance form which I gave him. Then

[2973] he went back to Mrs. Barnes.

Q. And did he ultimately come back to you then? A. Yes, sir.

Q. And after he came back to you what happened? A. He came up to my desk and handed me the grievance.

Q. Did you say anything to him at that time? A. I asked him if he was submitting the grievance at this time without any discussion. Mr. Gaskins said that he was. He said that he thought it was an unfair rating and therefore he was filing a grievance.

Q. Did he give you a grievance that was all filled out and signed by the employee?

A. Yes, sir.

Q. Was there anything else said at that discussion? A. I informed Mr. Gaskins that if he was filing a grievance I would follow the accepted procedure and he would have my answer within five days.

Q. Did that end the discussion? A. Yes, sir.

Q. Did you see Mr. Gaskins on the Barnes grievance again? A. Yes, I did.

Q. When did you next see him on the Barnes matter? A. On the 26th of October.

Q. What was the occasion of seeing him at that time? A. First step disposition.

[2974] Q. What happened between you and Mr. Gaskins on the 26th? A. Mr. Gaskins came to my desk after I had called his foreman and requested that he be sent up for the disposition. I took his copy of the grievance form and entered into it the form that I had and signed it denying the grievance and then I handed him back his copy.

Mr. Gaskins asked me at this time how I rated an employee. I told him that my ratings were based on my personal experience as an operator, my own personal standards and my daily observation of my operators.

I asked Mr. Gaskins at this time if he could substantiate or give me any facts to substantiate the request that was made for T rate for Mrs. Barnes. He told me that he felt

that she deserved the money and therefore she should be given it.

Q. T rate, is that the highest rate than an employee can be given? A. Yes.

Q. How had you rated Mrs. Barnes? A. Ninety-five percent.

Q. Ninety-five percent of what? A. The job rate.

Q. So how many steps would that involve to bring her up to a T rate? A. Three.

Q. Do you recall anything else in the meeting of the 26th? A. No, sir.

[2975] Q. Did you have any other contact with this grievance after the first step disposition? A. No, sir.

Q. In either of these two conversations that you had with Mr. Gaskins either on the 10th or the 26th was there any discussion or request by Gaskins for records? A. No, sir.

Q. Was there any discussion about quality review reports? A. No, sir.

Q. Any run-offs? A. No.

Q. Employee reports? A. No, sir.

Q. On either of these occasions did you have any discussions with Gaskins concerning where certain records were kept? A. No, sir.

Q. On either of these conversations did you refer to a sheet attached to the back of a crib which states how many pieces an employee should put out? A. No, sir.

Q. On either of these occasions did you discuss the amount of working time Mrs. Barnes spent in the ladies room? A. No, sir.

Q. On either occasion did you discuss whether she was wearing safety glasses on any occasion? A. No, sir.

[2976] Q. Was there any discussion on either occasion of Mrs. Barnes training a new girl on the job? A. No, sir.

Q. Was there ever a discussion on either occasion when Mrs. Barnes asked you for a

transfer and you wanted her to stay in the department because she was a good employee?

A. No, sir. I never told Mrs. Barnes she should stay in the department because she was a good employee.

Q. On either of these two occasions did you and Mr. Gaskins go over the five factors in the merit rating system and discuss Mrs. Barnes performance in relation to those?

A. No, sir.

* * *

[2979] CROSS EXAMINATION

* * *

[2984] Q. (By Mr. Harvey) When you gave your disposition on the 26th, Mr. Witness, you did however have some discussion as to the basis of your rating? A. Yes, sir.

Q. Tell me the whole discussion that you had. A. Mr. Gaskins came over and I gave him my disposition. Then he asked me how I rated an employee. I told him my ratings were based on my personal experience as an operator, on my own personal standards and on my daily observations which I make of my operators.

* * *

[2994] ANTHONY BANKOWSKI

was called as a witness by and on behalf of the Respondent, and having been first duly sworn, was examined and testified as follows:

* * *

[2994] DIRECT EXAMINATION

Q. (By Mr. McGuinn) Would you state your full name for the record? A. Anthony Bankowski.

[2995] Q. Would you spell that? A. B-a-n-k-o-w-s-k-i.

- Q. What is your address? A. Box 575 Peace Street, Middletown, Connecticut.
- Q. By whom are you employed? A. Pratt & Whitney Aircraft.
- Q. At that plant? A. The Middletown plant.
- Q. How long have you been employed by Pratt & Whitney? A. Fifteen years.
- Q. What is your current job? A. I am foreman in the master mechanics department, department 4034.

* * *

- [2996] Q. Do you know of an employee by the name of Conrad Tyaack? A. Yes, sir.
- Q. Does he work under your supervision? A. Yes, he does.
- Q. How long has he worked under your supervision? A. Approximately two years.
- Q. What does Mr. Tyaack do? A. He repairs and alters jigs and fixtures.
- Q. Could you give us a little more explanation. A. Every part on an aircraft engine has to be machined and in order to machine those parts we have to have tooling to hold those parts in the machine to hold proper alignment to drill holes, to mill or weld.
- Q. What degree of experience is required for a man in Tyaack's job? A. Tool making
- [2997] is a highly skilled trade. We hire craftsmen for that type of work. It's difficult to work.
- Q. Going back to June of 1970 approximately how many employees were you supervising at that time? A. In June of 1970 I had between forty and forty-five men.
- Q. How many do you have now? A. About thirty or thirty-two.
- Q. Referring back to June of 1970 do you recall a grievance filed by Mr. Tyaack over his merit rating? A. Yes, I do.
- Q. Prior to June of 1970 had you ever had anyone in your department file a grievance or request a Union steward over his merit rating? A. Yes, I have. The previous

grievance was also by Tyaack.

Q. Did any other person in your department ever file a grievance over a merit rating?

A. No, sir.

Q. Now, what date in June did this grievance arise if you recall? A. June the 15th.

Q. How did this first come to your attention? A. I was at my desk and Tyaack came down the aisle and stopped at my desk and he said that he thought his new rating which he saw at the Union hall came out with an R and he asked me if that was correct. I said [2998] yes. He said does that mean that I don't get a raise and I said yes.

He said I want to see a steward. I have a complaint.

Q. What did you do after he asked for a steward? A. I told Tyaack that I would get back to him and I called the personnel advisors.

Q. Do you know who you spoke with in the personnel advisor's office? A. I do not know. I don't recall.

Q. What was the substance of that conversation with personnel? A. Personnel advised me that they would get in contact with Havener and have him come over to see me.

Q. Did Mr. Havener come over? A. Yes. Within the hour Mr. Havener was at my desk. I signed his pass. I told him that Tyaack had a complaint. I don't know what it is.

I called Tyaack over and Havener and Tyaack had a discussion.

Q. About how long was that discussion? A. I would say it was about an hour.

Q. What happened after that discussion between Havener and Tyaack? A. Havener came back to me and he said that Tyaack was not satisfied with his rating. I asked Havener, well, what did Tyaack complain about. Havener said I think Tyaack should be rated L all [2999] the way.

Q. What does L all the way mean? A. L all the way is a T rating in labor grade

four.

Q. After he said he should be rated L all the way what did you say? A. I said that sometimes I think I should be president but that doesn't mean that I'm qualified.

Q. Was there anything else in this conversation? A. Then I said what experience do you have in tool making that you know that he is worth a T rating.

Q. What did he say to that? A. He didn't answer.

Q. Did you have any further discussion with Mr. Havener at that time? A. Havener said give me a grievance form and I want to talk to Tyaack.

Q. By the way, do you know what job Mr. Havener had at that time? A. He was a machine operator?

A. Do you know what labor grade? A. I believe it was labor grade six at that time. He had just completed a several week course in machining.

Q. Was a grievance filed after that discussion you had with Mr. Havener? A. Yes.

[3000] Q. When was it filed? A. The grievance was filed on the 17th at approximately a quarter to 11:00. I'm not positive of the time but it was in that vicinity.

Q. What was your next contact with this matter after the grievance was filed? A. My next contacts was at the time that I processed the grievance.

Q. When was that? A. When I denied the grievance. That was on the 24th of June.

Q. Did you have a discussion with Mr. Havener at that time when you made your disposition at step one? A. I don't recall any particular discussion outside of denying the grievance.

Q. What happened after you denied the grievance? A. Havener asked to see Tyaack and I told Havener I couldn't let him talk to Tyaack at that time because he was working on

a job for the Japanese Air Force and it was a job that they needed very badly and I couldn't let him go at that time but I told him that as soon as I could replace Tyaack I would get back to him.

Q. When was the discussion that you had with Havener. What time of the day?

A. It was about 10:30 in the morning on the 24th.

Q. Did you subsequently have Mr. Havener come back to see Mr. Tyaack?

[3001] A. Yes. Approximately 1:00 o'clock.

Q. What happened when he came back? A. Havener talked to Tyaack for approximately a half an hour.

Q. Did he have any further discussion with you after that? A. No, he did not.

Q. In any of your talks with Tyaack or Havener concerning this grievance did either of them ask you verbally for any records or other materials that you used in justifying your rating? A. No, sir.

Q. Did either of them ask you for standards you used in rating? A. No, sir.

Q. Did you ever say anything to Havener during those discussions to the effect that you were not going to discuss anything with them? A. No, sir.

Q. Did you ever say anything to Havener to the effect that I don't have to show you anything? A. No, sir.

* * *

[3001] CROSS EXAMINATION

Q. (By Mr. Harvey) Mr. Bankowski, had you had a discussion concerning the previous rating you had given Mr. Tyaack, the one previous to the one that formed the substance of

[3002] the grievance. A. Did we discuss the previous grievance?

Q. Yes, you said that there were two grievances that you recall, both from Mr. Tyaack.

One was in June of 1970 and the previous rating. A. I didn't discuss the previous rating.

Q. You didn't discuss the previous rating you gave to Mr. Tyaack and the basis for your rating? A. No, sir.

Q. Did you complain to Mr. Havener that Mr. Tyaack, a tool maker, hadn't talked to you while you had to talk to Mr. Havener, a machine operator? A. I didn't complain.

Q. Did you say that you felt it would be more sensible for you to talk with a tool maker and they could understand the basis of your rating? A. I did say it's strange that he didn't ask me to explain the rating.

* * *

Q. (By Mr. Harvey) Did Mr. Havener in the discussion he had with you either before or after he filed the grievance ever attempt to determine from you what the basis of your [3003] rating was? A. No, sir. I didn't even know what the grievance was about until I received it.

Q. And you read it didn't you? A. Yes, I read it.

Q. And then you had a discussion with Mr. Havener. A. I didn't have a discussion. All I asked him was in the discussion he had with Tyaack where did he think that I was wrong.

Q. Oh, you asked him. A. I asked him.

Q. What did he say? A. He said he should be rated L all the way.

Q. It is your testimony that he did not attempt to discuss at that time the basis of the rating or why you had rated him that way? A. He did not ask me to discuss it. He said I should rate him L all the way.

Q. When was it that you said you didn't understand why Tyaack hadn't come to you

to talk about it? A. When he first came back from Tyaack and I read the grievance.

* * *

[3004]

CROSS EXAMINATION

Q. (By Mr. Ratner) I hand you, Mr. Witness, what your counsel has submitted to me as the copy of the grievance that Mr. Havener gave you. It is a little difficult to make out.

A. It is very difficult to make out.

* * *

[3005] Q. "I grieve that the foreman, Tony Bankowski, has refused to discuss my merit rating with the shop steward, Dennis Havener." That's the grievance. A. Yes.

Q. The remedy requested is that the foreman discuss my merit rating effective May 18, 1970 with shop steward Denis Havener.

You ruled on this some time later on 6-24, this is dated 6-17 a week later -- denied. A. Right.

Q. Now, at the time you read this (grievance) when Dennis Havener said to you that Conrad Tyaack was grieving because you refused to discuss the merit rating with him --

A. Right.

Q. And Tyaack wanted you to discuss the merit rating with Dennis what did you say to Dennis. Tell us. A. I said to Dennis you've talked to Tyaack. Now, where did I fail to rate him properly.

Q. Oh. Your answer to this was you tell me where I failed to rate him properly. I'm not refusing to discuss this with you. I just want you to tell me where I failed to rate him properly. A. That's right. I did. I wanted to know where I failed to rate him properly

[3006] and Havener said he should be rated L all the way.

Q. And he submitted this grievance before he said this to you. A. Yes.

Q. That whole conversation happened after he submitted this grievance. A. Right.

* * *

[3006]

GORDON KEENEY

was called as a witness by and on behalf of the Respondent and having been first duly sworn, was examined and testified as follows:

* * *

[3007]

DIRECT EXAMINATION

Q. (By Mr. McGuian) Would you state your full name for the record? A. Gordon Keeneey.

Q. How do you spell that? A. K-e-e-n-e-y.

Q. What is your address? A. 100 Washington Street, Manchester, Connecticut.

Q. By whom are you employed? A. Pratt & Whitney Aircraft, Middletown plant.

Q. How long have you been employed by Pratt & Whitney? A. About eighteen and a half years.

Q. What is your current job? A. I'm a test maintenance foreman in department 4027.

* * *

[3008] Q. Approximately how many employees do you supervise at the present time?

A. I believe it is twenty-three.

Q. How many of these are hourly employees? A. Twelve.

Q. Are the remaining employees in the bargaining unit? A. No, sir.

Q. About a year ago how many employees did you supervise? A. Thirty.

Q. And how many of those were in the bargaining unit and how many were out of the bargaining unit? A. I believe seventeen would have been in the bargaining unit.

Q. Do you have an employee under your supervision named DuRaphael? A. Yes.

Q. How long have you been supervising him? A. Since June or July of 1968.

Q. Do you recall a merit rating grievance filed by DuRaphael filed in June of 1970?

A. Yes, I do.

Q. Do you recall the date when you first became aware of this matter? A. Yes, I
[3009] do. On May 28.

Q. What happened on May 28? A. DuRaphael asked me to show him his merit rating.

Q. What did you do? A. I obtained his merit rating and showed it to him.

Q. Was there anything else said at that time? A. He looked them over and he said he wanted a steward.

Q. What did you do then? A. I told him I would get him a steward and I called the personnel department and they obtained a steward.

Q. Who was the steward they obtained? A. Steward Tobin.

Q. About how long after you had the conversation with DuRaphael did Stewart Tobin arrive? A. I'm going to say within an hour or two.

Q. Prior to this DuRaphael request had you ever had a request for a shop steward?

A. No.

Q. When Mr. Tobin came over what happened? A. He came to the department and introduced himself and asked me what the problem was and I explained to Mr. Tobin that Mr. DuRaphael had asked me for his merit rating and I had so given him them. At that point he just asked for a steward.

Q. What happened after that initial conversation? A. He asked if he could talk with
[3010] DuRaphael and get his side of the story and with that I gave them an appropriate place to talk.

- Q. Did they have a talk? A. Yes, they did.
- Q. For about how long? A. Thirty minutes.
- Q. What happened after that talk? A. Tobin came back to me and said that DuRaphael was unsatisfied with his rating and that he felt he should be rated higher. At that time he asked me what my standards were and also to produce any records that I might have to substantiate my rating of this man.
- Q. What did you say in connection with the request for standards? A. I told him I don't have anything on paper other than the fact of my experience and my being a foreman over the years and as a supervisor prior that there is a job description which outlines his duties.
- Q. What did you say about the request for records? A. The only records that I had were my personal notes.
- Q. Did he ask for any records by name or did he just say records? A. I only recall him mentioning records.
- Q. Was there anything else to this discussion? A. I think he asked me at this time [3011] how I rated an individual and I told him I went factor by factor according to the merit rating system.
- Q. Do you recall anything else about this discussion? A. No, I don't.
- Q. When was your next contact with the DuRaphael matter? A. June the 5th.
- Q. What happened on June the 5th? A. He requested permission to come to see me which he did.
- Q. He meaning who? A. Meaning Tobin. At this time he said that DuRaphael's performance showed that he should be rated higher. At this time I asked him if he could be specific on what he thought he should be rated higher. He told me he couldn't give me

any specifics because he didn't have any records.

Q. Was there anything else in this discussion? A. No, I don't recall at the moment.

Q. Did Mr. Tobin ask you for your records again at this time? A. He may have.

Q. What was the purpose of this meeting on the 5th of June? A. At this time it was for him to file a grievance.

Q. Did he file it at that time? A. Yes, he did.

[3012] Q. What was your next contact with the DuRaphael matter? A. On May the 12th. Excuse me -- June the 12th.

Q. What happened on June the 12th? A. On June the 12th He came back to the department and again I guess he said he just couldn't produce any specifics as to the performance rating because of my not having any notes and records and so forth.

At this point he also started talking about a hobby that he had and I believe he said he had a hobby in electronics and he built a television set and also he had done some house wiring.

I told him that I didn't think that this qualified him to judge the rating that I had done and I denied his grievance at this point.

Q. By the way, what was DuRaphael's specific job? A. Maintenance electrician.

Q. Would he do electrical repair work? A. Yes, he would.

Q. Was there anything else to this discussion on the 12th of June? A. No. I believe that ended it.

Q. Did you make a disposition at that time? A. Yes, I did.

Q. During any of these discussions that you had with Mr. Tobin did he ever tell you specifically the types of records that he wanted? A. No. He just asked me to produce

[3013] records and standards.

Q. Since this particular merit rating grievance involving DuRaphael have you been involved in any other since that time? A. No, I have not.

* * *

[3028] GORDON SAWYER

was recalled as a witness, by and on behalf of the Respondent, and, having been first duly sworn, was examined and testified as follows:

* * *

[3028] DIRECT EXAMINATION

* * *

[3031] Q. (By Mr. Wells) Mr. Sawyer, you delivered to me yesterday this notebook in an envelope. I believe it was hand delivered to me at my office about 3:00 o'clock yesterday afternoon. It appears to be Dorsey's notebook. Is that correct? A. Yes, that is correct.

Q. Now, included in this notebook is this document which I will mark as Respondent's Exhibit 79 for identification. It is a three and a half page document. On the top it says "Employee Performance Rating" and, in parentheses, "Merit Rating". Could you tell us what this document is? A. It appears to be a well-used instruction or information sheet regarding employees performance rating system.

[The above document was marked Respondent's Exhibit No. R.79 for identification.]

Q. Isn't it in fact a reference paper that the Union supplied to the stewards?

A. I would assume that it has been supplied - -

MR. HARVEY: I object to the assumption, Mr. Examiner.

TRIAL EXAMINER: Would you care to rephrase your answer, Mr. Sawyer?

MR. RATNER: Has Mr. Sawyer seen that document before?

THE WITNESS: To my knowledge, this has not been distributed by 1746. It could be that some of the other locals--

MR. RATNER: I object to the speculation.

[3032] MR. WELLS: Now we have to call Mr. Havner.

Q. (By Mr. Wells) Mr. Sawyer, are you familiar with the document?

TRIAL EXAMINER: There was a question, Mr. Sawyer. Are you familiar with the document?

THE WITNESS: No. This is the first time I have seen this one.

Q. (By Mr. Wells) It was in Mr. Dorsey's notebooks, wasn't it? Do you have any question, Mr. Sawyer, that this was in Mr. Dorsey's notebook when you delivered it to me?

A. No.

TRIAL EXAMINER: May I see the document, Mr. Wells?

MR. WELLS: Yes. Particularly take a look at Page 3.

MR. RATNER: May we see Page 3?

TRIAL EXAMINER: Off the record.

(Discussion off the record)

TRIAL EXAMINER: On the record.

MR. RATNER: Mr. Examiner, it is perfectly obvious that Mr. Sawyer is not a competent witness to this document. I see nothing in this document that adds anything new and different to what is already on the record.

TRIAL EXAMINER: Are you prepared to stipulate that it is a document issued by one of the Unions in this case respecting the merit rating system?

MR. RATNER: No because I would have to know about which time and which
[3033] one. I suspect that it is only one and a long time before Mr. Sawyer got involved,

before the events of this proceeding, Your Honor.

MR. HARVEY: In any event, it is in Mr. Dorsey's notebook.

Q. (By Mr. Wells) Let me ask you this, Mr. Sawyer. Turn to page 3 of this document, Item 10. It appears to be instructions as to how employees should go about seeking information about his rating. Is not that in fact the instructions that you give your stewards to pass on to employees? Doesn't that represent the policy of 1746, 700, and 743 as far as you know?

MR. HARVEY: I object to the double-barrel nature of the question. I think we should take them one at a time. The second is objectionable.

TRIAL EXAMINER: I think it is basically one question.

THE WITNESS: Basically, yes, these are the instructions.

MR. WELLS: Will Respondent's Exhibit 79 be received?

MR. HARVEY: I will voir dire, Mr. Examiner.

[3033]

VOIR DIRE EXAMINATION

Q. (By Mr. Harvey) Are these the instructions that you give the stewards or the employees, Mr. Witness, directing your attention to page 3? A. This is similar to an instruction sheet that I believe I testified to earlier that Hamilton Standard used in that this is [3034] basically what we instruct the stewards.

Q. When you look at page 3 of that document, Respondent's 79 for identification, would you describe what the policy is of Lodge 1746 in connection with that--

MR. WELLS: That is not voir dire, Mr. Examiner. I object.

MR. HARVEY: I believe it is.

TRIAL EXAMINER: I think you can ask him that question on your cross-examination, Mr. Harvey.

MR. HARVEY: Very well.

MR. WELLS: May it be received in evidence, Mr. Examiner?

TRIAL EXAMINER: Yes, Respondent's Exhibit 79 is received.

[The above document, heretofore marked Respondent's Exhibit No. R.79 for identification, was received in evidence.]

* * *

HOWARD J. LYMAN

[3067] Q. By whom are you employed, sir? A. Pratt & Whitney Aircraft, Middletown plant.

Q. How long have you been employed by that company? A. Thirty-one years and one month.

Q. What is your current job? A. I am foreman of the department 4150, Heat Treatment.

Q. How long have you held that job? A. Since April, 1971.

Q. Prior to April of 1971 what was your job? A. I was foreman of Department 4118, Miscellaneous Burner Can Details.

[3068] Q. How long were you foreman of that department? A. From October, 1966, to April, 1971.

* * *

[3068] Q. During the year 1970 did you have an employee named Gaskins under your supervision? A. Yes.

Q. How long had he been under your supervision? A. From October, 1966 until April, 1971.

Q. Going back to April, 1970, Mr. Lyman, were you involved in an incident with Mr. Gaskins relating to a pass involving a briefcase? A. Yes.

Q. First of all, do you know the date on which it occurred? A. April 24, 1970.

Mr. Gaskins came to me informing me that he had difficulty in removing his briefcase from the premises, and would I have him a 30 day or a permanent pass to carry the briefcase [3069] to and from the property in Middletown.

Q. What did you say? A. I told him that I did not have the authority to issue him a 30 day pass or a permanent pass but I would issue him a pass in order to remove his briefcase from the premises when he needed it.

Q. Have you ever given Mr. Gaskins a pass prior to April 24? A. Yes.

Q. On approximately how many occasions do you recall? A. At least six times.

Q. What, if anything occurred after this conversation you had with Mr. Gaskins about the pass? A. He requested the services of the Union steward.

Q. What did you do when he made that request? A. I notified Personnel and they in turn got in touch with Mr. Piorek, the Union Steward.

Q. Do you know who you talked with in Personnel? A. I believe Tom Cryer.

Q. What happened then? A. Mr. Piorek arrived in the Department approximately a half an hour later and I in turn got Mr. Gaskins and they discussed the situation.

Q. How long was the discussion between Piorek and Gaskins? A. I would say roughly a half an hour.

[3070] Q. And what happened after that discussion? A. Mr. Piorek came to me and asked me if I could give him a 30 day pass and I said No, that I wouldn't or that I couldn't. I would issue him a pass for whenever he needed one.

Q. Anything else in this discussion between you and Mr. Piorek? A. I believe that I offered to get Mr. Gaskins a locker in order to keep his briefcase in it and his union papers so that he would have a place to store them.

Q. Did Mr. Gaskins at this time have a locker in Middletown? A. No, he did not.

Q. How was it that he didn't have one? A. He had been transferred from East Hartford and had not been issued a locker when he reported to Middletown.

Q. Was there anything more in this discussion with Mr. Piorek about lockers?

A. Mr. Piorek went on to the subject that it could be broken into and I told him if it was it would be turned over to Internal Security and they would do the investigation. He asked for a grievance form which I gave him.

Q. Is that the end of the discussion at that time? A. At that time, yes.

Q. After this discussion that you had with Mr. Piorek, did you do anything relevant to a locker for Mr. Gaskins? A. Yes. I obtained him a locker within a week of the incident.

[3071] Q. After this incident on the 24th of April, did Mr. Gaskins ever request a pass from you to take his briefcase in and out of the plant? A. Yes, he did.

Q. On how many occasions? A. 18 different occasions.

Q. Did you ever receive instructions from anyone in the plant not to issue Mr. Gaskins a pass to carry the briefcase in and out of the plant? A. No.

* * *

[3074] Q. Mr. Lyman, do you recall the incident with foreman Saverese told you about Gaskins being in his department? A. Yes.

Q. Again, can you recall the exact date of that? A. No, I cannot.

[3075] Q. Would it be in the same time period that we have been talking about here? A. It would be in the period of March and April.

Q. What happened on this occasion? A. He called to inform me - -

Q. "He"? A. Mr. Saverese called to inform me that Mr. Gaskins was in his

department passing out merit ratings.

Q. What did you do? A. Nothing was done at that time.

Q. Did anything occur on the next day or the succeeding days in regards to the passing out of merit ratings? A. On the following day he was observed by Walter Foster, the general foreman, and myself passing out merit ratings in Department 4151.

Q. And what time of the day was that? A. It was during the lunch period.

Q. What is the lunch period, by the way, on the third shift? A. At that time it was 3:15 to 3:45.

Q. During that time period approximately, when was it that you observed Mr. Gaskins?

A. At the end of the shift.

Q. At the end of the lunch period? A. At the end of the shift, within three minutes.

[3076] Q. What happened when you and Mr. Foster saw this going on? A. We asked him what he actually was passing out. He told us he was passing out merit ratings. We had asked him if he knew that he shouldn't be passing them out, that he should be passing them out only in the locker room or in the cafeteria. We were not sure about our question so we asked him if we could check it out and get back to him.

Q. What did you do after that? A. We called Personnel and asked them to give us a verification of what the standards were involving the passing out of merit ratings.

Q. Who did you talk to in Personnel? A. I don't recall.

Q. What was the response from Personnel? A. They called me and told me that it was perfectly legitimate for him to pass them out anywhere in the building as long as they were passed out during the lunch period.

Q. What did you do after that? A. I informed Mr. Gaskins that he was perfectly within his rights to do what he was doing.

Q. When did you so inform him? A. The next day.

Q. Was any grievance filed over this matter by Mr. Gaskins? A. No.

[3077] Q. I want to go back to another incident, Mr. Lyman, involving a call from foreman Savarese to you regarding Mr. Gaskins being in Mr. Savarese's department. Can you recall any other such incident? A. Yes.

Q. What happened there? A. I was called by Mr. Savarese to inform me that Mr. Gaskins was in his department talking to one of his employees. I met Mr. Gaskins as he came up the aisle from the department and asked him why he was over there. I don't remember the reason that he gave me. I told him to return to his department.

Q. Did you say anything else? A. Not that I recall.

Q. Did you at this time tell Mr. Gaskins that the employees should not talk to Union stewards? A. No.

Q. Did you say anything to him about the possibility that he might be signing up new members? A. No.

Q. Do you recall any employee other than Mr. Gaskins with whom you had to speak regarding excessive talking on company time? A. Yes.

Q. What employees in your department have you had occasion to speak to? A. Pamela Caldwell, Carolyn Hill, Lorraine Seaha, Reginald Hersey, Benjamin Williams and
[3078] on many occasions I had to speak to male employees from Department 4134 who came to visit and talk with Pamela Caldwell and Carolyn Hill.

Q. You say that people from other departments came into your department to talk to your employees? A. Yes.

Q. Did you recall the names of the persons there from other departments that came into your department to talk to your employees? A. Van Williams and a man named Slade. I

don't know his first name.

Q. Any others? A. No, none that I can think of.

Q. None that you can call by name? A. No.

MR. MCGUINN: Nothing further.

[3078] CROSS-EXAMINATION

Q. (By Mr. Ratner) You say that you advised Mr. Gaskins and then the Union steward later that you could not give Gaskins a 30 day pass for his union briefcase. Do I understand you to mean that you were forbidden by United Aircraft to do that? A. I did not have the authority to do it.

[3079] Q. Who told you that you did not have the authority to do it? A. It states so in the S.E.R.M.

Q. Show me?

MR. MCGUINN: I object to that.

TRIAL EXAMINER: Objection sustained. If it doesn't state so, Mr. Ratner, you may point it out to me in your brief.

Q. (By Mr. Ratner) Did you ever have a conversation concerning the scope of your authority to grant 30 day passes to union stewards to bring their union briefcases in and out of the plant with any higher member of supervision than yourself, your general foreman or anyone higher than he in the managerial hierarchy? A. No.

Q. Did you ever have occasion to discuss that question -- do you understand what I mean by "that question"? A. Right.

Q. Your authority to grant leave for union stewards to bring briefcases in and out of the plant for a 30 day period--with any member of Personnel? A. Yes.

Q. When? A. I don't recall.

Q. Was it before or was it after your statement to Gaskins that you had no authority to do this? A. It was after.

[3080] Q. Was it before or after your statement to the union steward that you had no authority to do this? A. It was after.

Q. In other words, you had first told Mr. Gaskins and then confirmed to the union steward that you had no authority to grant their request for a 30 day pass for the union briefcase then you personally reported to Personnel that you had so advised him. Is that correct? A. That's right.

Q. Did they say anything whatever to you in response to your advice as to what you had said? A. No.

* * *

[3082] Q. (By Mr. Ratner) You said that after the 24th, Mr. Gaskins, on 18 different occasions, asked you for a pass. He asked you personally? A. Yes.

Q. In each instance you gave it to him? A. Yes.

Q. Can you estimate the amount of time that is required on each occasion for Mr. Gaskins to approach you and ask for a pass? A. Possibly two or three minutes.

Q. Is this on Company time that he asked you for it? A. Yes.

* * *

[3083] Q. Do you have a policy of allowing your employees to spend up to three or four minutes in non-work related conversations during the course of an evening provided they don't abuse the privilege? A. Yes.

[3084] Q. Do you apply that policy equally to Mr. Gaskins as all other employees in your department? A. Yes.

Q. Does it make any difference to you what Mr. Gaskins or the employees' subject

matter of the conversation is when Mr. Gaskins engages in it as compared to another employee engaging in this kind of non-work related conversation?

* * *

Q. (By Mr. Ratner) Can you point out to me any subject, any piace in the S.E.R.M., that either deals with the subject of passes for employees to bring employee materials in and out of the plant? It may be in some other company document that you have reference to.

TRIAL EXAMINER: Just a minute. Mr. McGuinn, do you object to this question?

MR. MCGUINN: Out of the portion of the S.E.R.M. involved--

MR. RATNER: That is what I was looking for.

Q. (By Mr. Ratner) Mr. McGuinn has handed me a document entitled "passes", Section 604, issued 11-1-46, revised-- There are two identical 604's. One relates to the guard passes and the other one to the other.

Have you everseen a 30 day guard pass issued to an employee? A. Yes.

Q. Would you tell us what the circumstances were? A. It was issued to an employee who carried a textbook to and from the premises in Middletown.

Q. Who issued it to him? A. It was I who issued the pass and it was countersigned by the Lieutenant on the guard force.

MR. RATNER: I have nothing further.

Q. (By Mr. Harvey) Mr. Lyman--

MR. HARVEY: Mr. Examiner, I am going to go over a sniall bit that was covered by Mr. Ratner, if that is permissible.

TRIAL EXAMINER: You may proceed.

Q. (By Mr. Harvey) When you had your discussion with Mr. Gaskins, you told him that you would give him a pass whenever he needed it? A. Yes, sir.

[3086] Q. Did you say to him in the course of the discussion in connection with Step 2 and when you are called on you will issue a pass? A. Yes.

Q. Did you make any other statement as to whether he would be given a pass? A. No.

Q. The fact is, Mr. Lyman, that you would determine when he needed it? A. No, not necessarily.

Q. Did you tell him that any time he asked for a pass he could have it? A. Yes.

Q. For any type of business at all, sir? A. Not any type of business.

Q. Then what did you say he could have a pass for? You told us already Step 2 and when he is called out. Is there any other reason? A. If Mr. Gaskins asked for a pass it was usually Union business.

Q. I am not talking about a general pass, meaning- - I mean a pass for his briefcase. It was always for Union business, wasn't it? That was the Union briefcase? Isn't that a fact?

A. No. Mr. Gaskins passed out on other occasions than Union business.

[3087] Q. The pass was for his briefcase? A. No.

Q. I mean his briefcase. Did you tell him on what occasions you would give him a pass for his briefcase? A. No.

Q. What did you tell him? A. I told him I would give him a pass for his briefcase whenever he needed it.

Q. Didn't you tell him that whenever he needed it would depend on whether or not it was legitimate union business? A. No- -

MR. McGUINN: I object to this question. We have been over it several times.

TRIAL EXAMINER: Objection overruled. The witness has answered "No".

Q. (By Mr. Harvey) Did you discuss the use that Mr. Gaskins would have for asking for the pass?

MR. McGUINN: I object again. Repetitive.

TRIAL EXAMINER: Overruled.

THE WITNESS: No.

Q. (By Mr. Harvey) Each of these eighteen times that you issued a pass to Mr. Gaskins that you testified to, did you ask him what he had wanted it for? A. He usually told me.

Q. Did you ask him? A. Yes, in some cases.

[3088] Q. These eighteen times were over what period of time, Mr. Witness? A. Roughly 1970 up to April, 1971.

Q. Did he tell you in the course of that discussion in April that he needed it every day, he needed it to get his briefcase in and out ever day? A. He may have.

Q. And didn't he tell you why in discussing it with him? A. Yes, he may have.

Q. After you finished your discussion with Mr. Gaskins in April relative to the briefcase, your testimony is that you called Personnel? A. Yes, that's right.

Q. And every time in the eighteen times that you testified to relative to Mr. Gaskins that you issued a pass, did you make a note of that and tell Personnel that? A. No.

Q. Did you tell Mr. Gaskins that he just wasn't going to have it every time he asked for it but if he had legitimate Union business he would get a pass or words to that effect?

A. I don't remember.

Q. Are you instructed by Personnel, Mr. Lyman, to keep a control over the number of passes that you give? A. No.

Q. And that an employee would not get a pass for a briefcase unless there was a legitimate reason? A. No.

Q. In other words, as far as your authority is concerned, any time an employee asked for a pass you granted it. Is that your testimony? A. Yes.

Q. And that the only number of times that Mr. Gaskins asked you for a pass was eighteen times over that period of time that you testified to? A. That's right.

Q. You have never refused Mr. Gaskins a pass? A. No.

Q. Each time that Mr. Gaskins asked you for a pass, did you make a notation in your notebook? A. No.

Q. You kept a notebook on Mr. Gaskins, did you not? A. Yes.

Q. I show you what is in evidence in this case, Mr. Lyman, as General Counsel's 33 and ask you whether or not that is a copy of the notebook that you kept on Clarence Gaskins? Look closely and satisfy yourself. Is that your notebook? A. Yes.

Q. Do you keep a notebook like that on every employee in your department? A. No.

[3090] Q. By the way, sir, at the time these incident occurred in April of 1970 you were foreman of what department? A. 4118.

Q. Weren't you also foreman of Department 4151 too? A. Yes.

Q. How many employees were in those combined departments? A. At that time I would say 25.

Q. So, after your discussion with Mr. Gaskins and Mr. Piorek arrived, you discussed the matter with Mr. Piorek and your testimony is that with Mr. Piorek you offered to get Gaskins a locker? A. That's right.

Q. But Mr. Piorek didn't advance the problem that Mr. had. His problem was in getting it in and out of the plant, wasn't that true? A. That's true.

Q. Then how did the locker discussion come up? A. For a place to store his union papers.

Q. The locker was to store everything. An employee gets a locker in the normal course of business, doesn't he? A. Yes.

Q. And Mr. Gaskins, as any employee in your department, would have gotten a locker in due course anyway. Isn't that true? A. Yes.

* * *

[3109] MR. McGUINN: May I mark this as Respondent's Exhibit No. 80.

[The above document was marked Respondent's Exhibit No. R.80 for identification.]

Q. (By Mr. McGuinn) Mr. Lyman, I have marked for identification as Respondent's Exhibit No. 80 a document entitled "Guard Passes for W.C. Gaskins by Foreman Howard Lyman from 5-7-70 to 1-28-71" and I will ask you whether or not this document was prepared by you? A. Yes, it was.

[3110] Q. How did you prepare this document? A. The pass numbers, the date and the reasons for issuing the pass were taken from my passbook which I have in my file cabinet.

MR. McGUINN: I move the admission of Respondent's Exhibit 80.

MR. HARVEY: One question.

[3110] VOIR DIRE EXAMINATION

Q. (By Mr. Harvey) This would not show the number of time he was refused, if any, a pass. It only shows when passes were actually issued. Is that right? A. Right.

MR. HARVEY: I have no objection.

TRIAL EXAMINER: Respondent's Exhibit 80 is received.

[The above document, heretofore marked Respondent's Exhibit No. R.80 was received in evidence.]

[3110] REDIRECT EXAMINATION RESUMED

Q. (By Mr. McGuinn) Did you ever refuse to give Mr. Gaskins a pass other than the request for a 30 day pass? A. No.

* * *

[3122]

LUCIUS W. ROBINSON
DIRECT EXAMINATION

Q. (By Mr. McGuinn) State your full name for the record? A. Lucius W. Robinson, Jr.

Q. What is your address, sir? A. Route 66, Columbia, Connecticut.

Q. By whom are you employed? A. Pratt & Whitney Aircraft, Middletown.

Q. How long have you been employed by Pratt & Whitney? A. Continuously since 1951.

Q. What is your current job? A. Foreman of the production machining department for the 262 on the first shift in Middletown.

* * *

[3123] Q. Do you know an employee named Dennis Havner? A. Yes.

Q. Was he ever under your supervision? A. Yes, from February, 1970 until March, 1971.

Q. After he came under your supervision in February of 1970, do you recall any request that he made for passes to take his briefcase in and out of the plant? A. Not at first but then he began to ask for passes.

Q. When? When did he begin to ask for passes? A. In April, 1970.

Q. What did you do with these requests when they first started? A. When he first

[3124] began to ask for them I granted them all and then it became daily on his part. In fact, every single day. Then I called Personnel for a clarification of the Company policy on this matter.

Q. About when did you call Personnel on this matter? A. It was some time in the latter part of April and the first part of May.

Q. With whom did you speak in personnel? A. The Personnel Advisor, Tom Cryer.

Q. What did Mr. Cryer say in regards to these daily requests for passes? A. He said that if Havner had a legitimate reason for taking his briefcase out, I would give him a pass but if he just wanted a pass because he said he needed it I was to deny it.

Q. And after you received this information from Personnel, what if anything did you do?

A. I related it to Havner.

Q. After you related this to Mr. Havener, did he continue to make requests for passes?

A. Yes.

Q. Were they on a daily basis? What kind of basis were they on after that time?

A. They would be on a daily basis for a period of time and then he would not ask for them on a daily basis and then it would go back to being on a daily basis again.

[3125] Q. And what did you do with these requests as they came in? A. Some I granted and some I denied.

Q. On what occasions would you deny these requests for passes? A. When he had no reason other than that he simply needed it.

Q. Approximately how many occasions in May, April, May and June, did you deny his request for a pass? A. Three or four.

Q. On how many occasions during April, May and June did you issue him a pass?

A. 35 to 40.

Q. During this period of time did you ever tell him that you would give him one pass a week or a certain number of passes in a certain time span? A. No.

Q. Do you recall any incident where you initially refused to give him a pass and then reversed yourself after calling Personnel? A. No.

Q. Do you recall an incident on this pass situation you had in June of 1970? A. Yes.

Q. What was the nature of that incident? A. I believe it was June 9. He came to me

[3126] shortly after lunch and wanted a pass to take his briefcase out. I told him that I couldn't give him a daily pass but that I would give him a pass if he had a legitimate reason for taking it out. He insisted that the only reason he had was that he needed it and I refused him a pass at that time.

Q. After you refused him a pass on that occasion, what if anything happened? A. He asked for a Union steward.

Q. And what did you do after he requested a Union steward? A. I called Personnel and they contacted another foreman and sent us the word over on Steward Foran.

Q. Did Mr. Foran come over? A. Yes.

Q. About how long after the incident arose? A. I would say 20 minutes to a half an hour, I suppose.

Q. What happened when Mr. Foran arrived? A. I told him that Havner had a problem and wanted to talk to him so he talked to Havner. Then he came back to me and I told him that I would give Havner a pass if he had a reason for taking it out. Just on the fact that he said he needed it, I couldn't give him a pass. Steward Foran told me that Havner would give me a reason and I said, "Fine. I'll give him a pass." After Foran left, Havner came up and told me that he had a Union meeting to attend that night and that he needed the material in

[3127] his briefcase for that. So I gave him a pass.

Q. Did Mr. Havner file a grievance over this matter? A. No.

Q. Prior to this June 9 date, Mr. Robinson, had Mr. Havner made any requests for passes to you? A. Yes, he had.

Q. How many days prior? Approximately? Working days? A. I don't recall exactly.

Q. Was it more than two or three? A. There were a number of times when he requested a pass.

Q. I am just talking about the days prior to June 9, 1970. Do you recall? A. I can't recall.

Q. Going to October of 1970, do you recall a grievance filed by Mr. Havner over his merit rating? A. Yes, I do.

Q. Do you recall what date in October that was? A. October 7.

Q. What was your first contact with Havener? A. On October 5, Havener asked me for his rating and I told him I would get it for him and get back to him. I got back to him on October 7th. We discussed it factor by factor using the gold book that the Company puts out. I mentioned his five pieces of deviate material and the accuracy factor; on the output I mentioned to him that I had to speak to him a couple of times for low output and that I [3128] thought he could do better; on the use of working time, I had observed him talking with other employees from time to time; on job knowledge, I felt that if he had used or exhibited a little bit more job knowledge, possibly some of the deviate material would not have occurred; on cooperation, we discussed working from bell to bell. On the whole I felt that he had a very good rating and I told him so.

Q. Did Mr. Havner have any comments during this presentation you made to him? A. He seemed to feel that some of the pieces of deviate work were not his fault. I didn't agree with him.

Q. Do you recall anything else that he said during this meeting? A. I believe he asked me to use the Frieden report in rating output and I told him no.

Q. Anything else in this meeting that you can recall between yourself and Havner? A. I think he asked me what my standards were. I told him they were based on my experience as a foreman and my observation of him on a daily basis, taking into the consideration the particular job he was running at the time and any problems that came up in connection with

each job.

Q. During this discussion with Mr. Havner, did Mr. Havner have anything in writing in front of him? A. He had a notebook that he referred to from time to time.

[3129] Q. About how long did this meeting with Mr. Havner last? A. About an hour and twenty minutes.

Q. After your discussion with Mr. Havner, what happened? A. He wasn't satisfied with my explanation and he asked for a Union steward.

Q. What did you do when he asked for a Union steward? A. I told him to go back to work and I would arrange to have one sent over. I did and I called Personnel and I sent over Warren Lee.

Q. When did Mr. Lee arrive at your department? A. About one o'clock.

Q. What happened when the steward came over? A. I told him that Havner and myself had a discussion about his rating, that he wasn't satisfied. He wanted to see his steward and so Steward Lee went to talk with Havner.

Q. About how long did they talk? A. About an hour.

Q. What happened about their discussion? A. Mr. Lee came back and I went over the rating factors with him in the same manner that I had gone over them with Mr. Havner but more briefly, not as extensively.

Q. Was there any reason why you discussed it with Mr. Lee more briefly than you discussed it with Mr. Havner? A. Yes. Mr. Lee didn't have any or as many questions as

[3130] Mr. Havner.

Q. About how long was this meeting with Mr. Lee? A. About twenty minutes.

Q. Other than the Frieden report you testified to before, during either your discussions with Havner or Lee on the 7th -of October, did either of them ask for any other kind of

record? A. No.

Q. After your discussion with Mr. Lee, was a grievance filed? A. Yes.

Q. Did you participate in the disposition of that grievance? A. Yes, I did.

Q. When was that? A. October 13.

Q. Who participated in this? A. Steward Lee and myself.

Q. And what happened on this occasion? A. Mr. Lee came over and I asked him if he had talked to Havner since the last time he had been over on the matter and he said no. I asked him if he had any evidence to substantiate that the grievanced rating was in error and he said no. I denied the grievance. He immediately appealed it saying he thought that is what Havner wanted to do.

[3131] Q. Was there any discussion at this time about records at all. A. No.

MR. McGUINN: No further questions.

[3131]

CROSS-EXAMINATION

Q. (By Mr. RATNER) Did you say that your name was Lucius Robinson? A. Yes.

MR. HARVEY: I note, Mr. Examiner, that in the Complaint Mr. Robinson is referred to as "Luke Robinson". I would like to move to amend the Complaint to reflect the witness' proper name.

THE WITNESS: Being a junior, I have adopted the name "Luke".

TRIAL EXAMINER: We will leave "Luke" in there.

Q. (By Mr. Ratner) On occasion you said that Mr. Havner satisfied you that he had a reason that was legitimate or adequate to justify your granting him a pass to take his briefcase out of the plant. Am I correct? A. Yes.

Q. You have given us one example, namely, he had a meeting that night at which he wanted to use it. Can you give us any other illustrations of reasons that Mr. Havner gave you

which you considered legitimate? A. Yes. If he had a grievance to prepare or if he had some Step 2 meeting coming up. Any day that he was called out on Union business, I didn't [3132] call or ask for a reason. I assumed that he needed it that night. He had to prepare whatever business he had to have. I didn't even ask him for a reason on those days. I mean on the days that he didn't get called out on Union business, I asked for a reason.

Q. Therefore, all of the occasions to which you testified and when you denied a pass were days on which he had transacted no grievance business. Is that correct? A. No Union business.

Q. Or had not been called out on Union business? A. Correct.

Q. You were aware, were you not, Mr. Robinson, that one of the functions of the Union steward is to solicit employees to join the Union? A. I am aware of that, yes.

Q. And suppose Mr. Havner had succeeded in getting an employee or two to sign a Union authorization membership card, dues checkoff authorization card, during the luncheon period and wanted to turn that in to the Union office that night; suppose he had told you that the reason he wanted to take his briefcase out was that he wanted to take the cards with him to the Union office and turn them in. Would you have considered that a legitimate reason?

MR. McGUINN: I object to that.

[3133] TRIAL EXAMINER: Sustained.

Q. (By Mr. Ratner) Did Mr. Havner ever in fact tell you that that was one reason why he wanted to get a pass? A. No, he didn't.

Q. Do you know whether in point of fact, among other materials, what Union shop stewards carry in their briefcases are authorization cards and dues checkoff cards and Union membership cards? A. I don't know what they carry in their union briefcases.

Q. Have you ever asked Mr. Havner to open his briefcase so that you could inspect its contents so that you could be sure that he was not taking anything out of the plant that he was not authorized to? A. Once.

Q. Did he open it on that occasion? A. He did.

Q. What did you discover in his briefcase on that occasion? A. There was a very quick glance and I didn't even discover anything. I saw that there were no tools or anything that might belong to the Company. That is all.

Q. You saw that there were papers in it? A. yes.

Q. Did you see enough to know that they were Union papers? A. I presume they must have been Union papers.

[3134] Q. That wasn't the question. I am not asking for your presumptions. I am asking you for what you saw. Did you see enough to know that what you were looking at were Union papers, papers related to the Union? A. It was so long ago, I don't remember.

Q. How long ago was it? A. This must have been over a year ago.

Q. Longer ago than April, 1970. A. No, I would say about that time.

Q. When was the first time that it occurred to you that you ought to check with Personnel before you routinely gave Havner permission to take his briefcase out of the plant? A. I believe it was some time in May.

Q. Of 1970? A. 1970.

Q. That is over a year ago, isn't it? A. Yes.

Q. How is it that you remember the number of occasions, the length of time, the routineness with which you granted permission and don't remember what you saw or when it was you looked in to Havner's briefcase for what he had in it? A. In all fairness to Havner, I felt that he probably had material in his briefcase that was of a confidential nature to him

and I did not make a minute scrutiny of the contents of the briefcase. He simply opened it. I glanced in and that was it.

[3135] Q. In all fairness to Havner, after that one time when you looked in his briefcase, you didn't think it necessary even to make that kind of a cursory examination any more?

A. I did not.

Q. You knew therefore or assumed that all that Havner was taking in and out of the plant was Union matter? A. I did.

Q. What concern was it of yours or of the Company then what matter, Union matter, Havner brought in and out of the plant and how frequently he took it out? A. I was no concern of mine. That is all -

MR. RATNER: I have no further questions.

MR. McGUINN: Did he finish his answer?

MR. RATNER: Yes.

TRIAL EXAMINER: Did you want to add something, Mr. Robinson?

THE WITNESS: It was no concern of mine what Union matter he took in and out of the plant. The only thing is that I was operating under instructions from Personnel that I must have a reason for taking his briefcase in and out of the plant.

Q. (By Mr. Ratner) Sure but what concern was it of yours or of the Personnel Department, for that matter, if you want to tell us, how frequently Dennis Havner brought Union material into or out of the plant? A. The instructions I received from Personnel were that [3136] nobody gets a daily pass.

Q. When did you get those instructions? A. When I talked to Tom Cryer.

Q. And that was after you had been giving Havner a daily pass for a month or so?

A. I don't think it was that long.

Q. Okay. You told us the first time it was about a month. Doyou want to revise it? Revise it. How long was it?

MR. McGUINN: I disagree with that characterization.

TRIAL EXAMINER: The witness can answer for himself.

THE WITNESS: I believe I said it was about the first part of May when I called Personnel.

TRIAL EXAMINER: That is my recollection.

MR. HARVEY: My recollection is that he testified in April, 1970.

MR. McGUINN: May--

TRIAL EXAMINER: May, April or early May. The record will show it, in any event.

MR. RATNER: I don't intend to make a big deal of it.

Q. (By Mr. Ratner) How long was it from the time Havner started asking for the passes before you called Tom Cryer and said, "What do I do about this guy?" A. I don't know.

Q. You have no recollection? A. I don't know. It could have been two weeks. I [3137] don't know.

Q. (By Mr. Ratner) Up to the time in question, Havner had made requests and you had granted them routinely. Prior to that time, along about the first of the time, you took the trouble to glance through the briefcase and then you stopped that. Is that right? A. Yes.

Q. it is true, is it not, that your inspection was on one of the first occasions that he asked for it. Right? A. I believe it was one of the first times.

Q. Then you said you had a conversation with Tom Cryer. What did you tell Tom? A. I told him that Havner was--

Q. Did he know who Havner was? Did he know he was the Union steward? A. I believe he does.

Q. Did he at that time know or did you tell him?

MR. McGUINN: I object to that. How could he know what Tom Cryer knew?

TRIAL EXAMINER: Did you mention it to Mr. Cryer?

THE WITNESS: I don't think I did.

Q. (By Mr. Ratner) What then did you tell Mr. Cryer? A. I told him that Havner was asking for a daily pass and that I had been giving -

Q. For what? Did you tell him? A. To carry out his Union briefcase and that I [3138] had told him I had been giving him a pass each time he asked for it.

Q. And you asked him whether it was all right to keep doing it? A. Yes.

Q. And Mr. Cryer said what to you? A. That no one gets a daily pass, carrying material in and out of the plant. In the case of Mr. Havner, if he had a reason, legitimate reason to carry it out, it would be all right if I gave him a pass.

Q. So from there on in, pursuant to those instructions, you then each time Havner asked for a pass asked him what he needed to take the briefcase out of the plant for?

A. Not each time.

Q. Not each time. Each time, except when you knew he had been called away on a grievance during the day? A. Yes.

Q. And then you assumed what the answer was? A. Yes.

Q. How many times between May, 1970 and Jun, 1970 did Dennis Havner say to you, "I would like to have a daily pass" or "I want to go out every day with my briefcase"?

A. I don't recall that he made a request for a daily pass.

Q. Yet you testified, I believe, that on June 9, 1970, you explained to Dennis Havner

after lunch that you couldn't give him a daily pass but you would give him one if he gave a [3139] legitimate reason. Right? A. I believe I misunderstood your previous question. I thought you meant a continuous pass made out for more than one day at a time.

Q. That's what I understood. I understood you to say that Tom Cryer had told you when you asked him some time in May of 1970 that you could not give him a daily pass.

Didn't that mean a pass each day? A. Yes, that's what it meant.

Q. Are you changing that now to say that in June you told him you couldn't give him a pass for more than one day? A. Perhaps I am a bit confused now.

Q. There is a pass that I come to you and get on Monday for Monday-- A. Yes.

Q. --on Tuesday for Tuesday-- A. Yes.

Q. --on Wednesday for Wednesday. Did Tom Cryer say to you that you can't give Havner a pass on Monday, on Tuesday, on Wednesday, on Thursday, on Friday? A. He didn't say it on those words but he said I couldn't give him a pass every day.

Q. You couldn't give him a pass every day? A. Unless he had a reason for taking it out.

[3140] Q. That particular day? A. Yes.

Q. When did you first tell that to Dennis Havner in relation to the time Tom Cryer told that to you? A. It was the same day.

Q. How was it that at some subsequent time, at some later period, you testified you again repeated the same thing to Dennis Havner-- A. Could you repeat the question, please?

Q. Did you or did you not tell Dennis Havner the same thing more than once?

A. Yes.

Q. When was the second time you told him he could not have a daily pass? A. I

don't recall exactly what day it was. I did tell him that on June 9 he had insisted on that day that he simply needed it. He didn't give me a reason. That is what I told him again, that I couldn't get him a daily pass without a reason.

Q. When you talked to Tom Cryer, did Tom say that it was the Company policy to leave it to your discretion to determine whether the reason was legitimate or satisfactory?

A. Yes.

Q. You were to be the final judge of that? A. Yes.

* * *

[3161]

JOHN J. BUREK

was called as a witness, by and on behalf of the Respondent, and, having been first duly sworn, was examined and testified as follows:

MR. McGUINN: The testimony of Mr. Burek will go to paragraph 7(q) of the Complaint, involving the testimony of Mr. Havner.

[3161]

DIRECT EXAMINATION

Q. (By Mr. McGuinn) Would you state your full name, please? A. John J. Burek.

[3162] Q. Where do you work? A. Pratt & Whitney Aircraft in Middletown.

Q. How long have you been employed there? A. 28 years.

Q. What is your current job? A. Foreman of the East End Department 4260.

Q. What shift? A. Second shift.

Q. How long have you had that job, sir? A. This job I've had about six months but I have been foreman for about five years.

Q. Prior to the time that you had this job in this department, what department were you involved in? A. As foreman in 4262, 4240 and I was a group supervisor, big bore operator, assembly, sub-assembly, milling machine operator.

Q. Did you say how long you had been a foreman? A. ABout five years.

Q. Do you know an employee named Dennis Havner? A. Yes, I do, sir.

Q. Was he ever under your supervision? A. Yes, he was.

Q. From what time to what time was he under your supervision? A. Somewhere in the 1967 t-o the first part of last year, some time in 1970, except for a period say the time he went to school.

[3163] Q. During the time that Mr. Havner was under your supervision, did you ever make out passes so that he could take his materials from the plant? A. Yes, several times.

Q. When he requested these passes, did you ever engage in any conversation about them? A. No, sir. I just gave him a pass.

Q. Did you ever tell Havner on any one of these occasions that he would no longer need a pass for his briefcase? A. No, sir.

Q. On April 24, 1970, was Mr. Havner under your supervision? A. 1970? No, sir.

Q. Do you recall an occasion around that timewhen Havner came to you to obtain a pass because the first shift foreman had gone home or wasn't in the area? A. It was about that time. I don't remember the exact date but it was April somewhere.

Q. Do you recall any occasion around April of 1970 when Havner asked you to check on why he couldn't carry a briefcase out without a pass? A. No. That was second shift foreman.

* * *

[3164] JOHN H. PHELPS

was called as a witness, by and on behalf of the Respondent, and, having been first duly sworn, was examined and testified as follows:

* * *

[3165] DIRECT EXAMINATION

Q. (By Mr. McGuinn) Would you give your full name for the record, sir? A. John H. Phelps.

Q. What is your address? A. 85 Sound View Avenue, Madison, Connecticut.

Q. By whom are you employed, sir? A. Pratt & Whitney Aircraft, Division of United Aircraft Corporation.

Q. How long have you been employed by the Company? A. Twenty-four years.

Q. What is your current job? A. I am assistant to the manufacturing manager.

* * *

[3166] Q. What role do you take in the second step of the grievance procedure for the plants, the Connecticut plants, in the Pratt & Whitney Aircraft Company? A. I hear all the grievances on all the four plants.

Q. Which four plants are you referring to? A. The East Hartford, North Haven, Southington and Middletown.

* * *

[3171] CROSS-EXAMINATION

* * *

[3189] Q. Is this the reason, Mr. Phelps, why all the step two minutes begin with the statement by Mr. Phelps on the record, "what facts do you have to substantiate the grievance"? Is that how you start the meeting in order to find out what the contention is? A. That is correct.

* * *

[3190] Q. (By Mr. Harvey) Is it a fact that the steward does tell you at step one that the employee was confused and could not understand his merit rating and does not know what the merit rating means sufficiently to raise this issue or contention in order for you to turn over

[3191] records? A. I don't think they ever put it in that framework, to turn over records

if the employee is confused as to what he heard at step one. I would be happy to remand it back to step one so that he can have a thorough discussion with the foreman about what he is confused on.

Q. (By Mr. Harvey) If the questions are put to you in step two that the employee is confused and does not understand the standards and the application of the standards by the foreman, is this sufficient grounds in your opinion to be contentious enough to require either a remand or a production of records? A. I would remand this.

Q. Inevitably on questions like this? A. Again, if it is put in that manner I would prefer to remand it because the two people who know the performance best are the foreman and the employee.

Q. And the steward? A. No. I am sorry.

Q. Your remand excludes the steward? A. Oh, yes, sir.

* * *

[3194]

REDIRECT EXAMINATION

Q. (By Mr. McGuinn) Mr. Phelps, on those occasions when you did remand a merit rating grievance back for a discussion between the foreman and the employee, what happened. if that discussion is not productive and the employee requests a Union steward?

MR. HARVEY: I object, Mr. Examiner.

MR. MCGUINN: You went into it.

MR. HARVEY: Hypothetical. There are no facts.

[3195] TRIAL EXAMINER: I think they asked him about the remand but not what happened. You may continue.

Q. (By Mr. McGuinn) Did you get the question? A. No.

Q. After the remand and the foreman and the employee talk it over and the employee

talk it over and the employee is still dissatisfied and requests the Union steward, what is the procedure? A. He submits another grievance.

Q. Does the foreman and the steward then talk about it? A. Yes.

Q. You don't exclude the steward there, do you? A. Not once the man has requested a steward.

[3195] RE-CROSS-EXAMINATION

Q. (By Mr. Harvey) Your testimony, Mr. Witness, with respect to a remand implies that there will be a further discussion between the employee and the foreman and not with the steward, the employee and the foreman. Is that correct? A. That is correct.

MR. HARVEY: Nothing further.

THE WITNESS: May I add to that?

TRIAL EXAMINER: I think you have already made it plain that following that if the employee presents another grievance he can have the steward called in?

THE WITNESS: Right.

* * *

[3199] WILFRED E. HALL

was called by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

* * *

[3199] DIRECT EXAMINATION

Q. (By Mr. McGuinn) State your full name for the record, sir. A. Wilfred E. Hall.

Q. What is your address? A. 823 Murdock Avenue, Meriden.

Q. And by whom are you employed? A. Pratt & Whitney Aircraft.

Q. How long have you been employed by the company? A. Thirty years.

Q. What is your current job? A. Assistant Personnel Manager.

[3200] Q. For what operations at Pratt & Whitney are you Assistant Personnel Manager?

A. Connecticut operations.

Q. How many plants does that involve? A. Four large scale plants plus an assortment of other smaller plants.

Q. That would be Middletown, East Hartford and -- A. North Haven and the main plant in East Hartford.

Q. How long have you had this job? A. Since October 1964.

* * *

[3201] Q. Do you recall an investigation and subsequent discipling for one Gary Raymond? A. Yes, I do.

Q. What was your involvement in the Gary Raymond suspension? A. I made the recommendation to the manufacturing manager's office that Raymond be suspended for two weeks.

Q. When, if you recall, was Mr. Raymond suspended? A. He was notified on October 5 that he was suspended for the next ensuing two weeks starting on October 6.

Q. Do you recall when you made your recommendation on October 5? A. Yes.

Q. Approximately what time? A. Sometime in the afternoon shortly after lunch.

[3202] Q. At the time you made your recommendation, what information had you or your office received in connection with this matter? A. All of the statements that had been obtained the previous Friday, which was October 2nd, and Raymond's statement which had been taken the morning of Monday, October 5.

Q. Did you actually see Mr. Raymond's statement before you recommended the discipline? A. Yes, I did.

Q. When did you see that? A. Sometime shortly after lunch. I do not know the exact time.

Q. Would that be on October 5? A. Yes.

Q. Do you recall how you got this statement of Mr. Raymond? A. I called over and asked -- I called over to Internal Security and asked where the report was, where the report of the investigation was, and when I learned that it had not been completed yet, I asked for Mr. Raymond's statement, and I based my recommendation on that absent the report.

Q. Whom did you talk with over at Internal Security? A. I believe it was Mr. Connelly, the supervisor.

Q. Mr. Hall, I want to show you General Counsel's Exhibit No. 57, which is the investigative report concerning the Gary Raymond case, and I want to point out to you that [3203] portion of the file that is a statement dated October 5, and it is a three-page statement signed by Mr. Gary Raymond. I want to ask you whether that is the statement that you had in your possession when you made the recommendation regarding Mr. Gary Raymond's suspension. A. Yes, I believe it is.

Q. Mr. Hall, I direct your attention to the first page of General Counsel's Exhibit No. 57, which is a one-page document entitled "Synopsis", and is dated October 6, 1970. What part, if any, did this synopsis have in the action you were taking in regards to Mr. Gary Raymond? A. None.

Q. Do you recall when you received the synopsis? A. I believe it was a couple of days later,

Q. Mr. Hall, there was testimony early in this proceeding concerning a personnel advisor, Dennis Shay, and his involvement in obtaining the cooperation of one Lionel Labbe in signing a statement to Internal Security on the Raymond investigation. My question to you is what is Mr. Shay's current status? A. He is deceased.

MR. McGUINN: I have no further questions.

CROSS EXAMINATION

Q. (By Mr. Harvey) Would you look at General Counsel's 57, Mr. Hall, and tell me [3204] what statements in there you also saw in addition to Mr. Raymond's that you relied on--57 being the investigative report? How many of those statements did you read and rely upon in making your decision to recommend the suspension, and give us the names of the employees whose statements you have relied on? A. I believe I had all of the statements which are included in this exhibit. There were a fair number of them. It is my recollection there were about a dozen statements, including that of Raymond, and Mr. Heim, and I happen to remember the name of Frank Ellard, an employee named Ruzika.

Q. So you have looked through -- A. Yes, I believe I had all of the statements.

Q. You had all of the statements before you when you made your decision? A. Yes, I did.

Q. And you made your decision, you testified, sometime after lunch on October 5?

A. That's right, my recommendation.

Q. And whom did you make your recommendation to, sir? A. I sent the recommendation to the office of the manufacturing manager.

Q. Did you send it in writing? A. I sent the statements with a slip of paper recommending a two-week suspension.

[3205] Q. Did you give any reasons on the slip of paper? What did you say? A. I recommended a two-week suspension for violation of the company rules.

Q. Did you specify what rules? A. No.

Q. So the only thing in General Counsel's 57 that you did not have before you is the synopsis. Is that right? A. To the best of my ability to state, yes, that is correct.

Q. Did you have any relationship as far as supervision over Internal Security was

concerned at the time? A. Yes.

Q. Did you directly supervise that group? A. Not in connection with this case, no.

Q. I did not mean in connection with this case. I mean in connection with the Internal Security Department. A. Yes, sir. The Plant Protection Department, which includes this internal security group, is part of the Personnel Department.

Q. And they were under your supervision? A. Yes.

Q. Including the guard force? A. That's correct.

Q. Were you the individual that ordered the investigation or ordered Internal Security [3206] to investigate this matter? A. No.

Q. Who was that? A. I do not know.

Q. When did the Raymond incident first come to your attention? A. I believe I first heard of it on Friday, October 2nd, I think.

Q. That would be the day after it happened? A. Yes.

Q. Who advised you? A. I believe that I heard a verbal report from someone from the personnel advisor's office.

Q. Do you recall who? A. No, I don't.

Q. Did you receive any of the details--what report? A. Just a general report that Mr. Raymond--I do not even think that I recognized the name at that point--had been insubordinate, and statements were being taken.

Q. What did you hear, that a steward had been insubordinate or just an employee?
A. I understood he was a steward.

Q. But at that point were you aware that an Internal Security investigation was taking place? A. I was aware at that point that statements were being taken.

[3207] Q. And did you receive copies of them as they were taken? A. No. I believe

that I first received copies of the statements on one day, sometime Monday.

Q. Had you asked for them? A. Yes.

Q. When did you ask for them? A. Sometime Monday morning when I asked where the case was.

Q. Did you expect it on your desk by Monday morning? A. I assumed that the case would have been completed on Friday and I would be receiving it sometime on Monday.

* * *

Q. (By Mr. Harvey) As the result of reading the various statements, did you order any further investigations? A. No.

Q. Did you read the synopsis after it came down? A. I looked at it. My recollection is that at the time that I received the case, including the synopsis, I had already made my recommendation, and Mr. Raymond had already been suspended.

* * *

[3208] Q. (By Mr. Harvey) Did you notice that there was a discrepancy in the observations of the witnesses that are contained in the investigative file? A. I am not sure I know what discrepancy you are talking about.

Q. Mr. Witness, you read through the statement? A. Yes, sir.

Q. Isn't it true that the statements say that some employees saw Heim hollering at

[3209] Raymond and others said they saw nothing and others said that it was Raymond who was shaking the pencil, this type of stuff? A. I did not get that impression from reading it. There is no doubt about it that some witnesses saw things which other witnesses did not see. In fact, some of them did not see anything. Not all the statements are exactly alike, no.

Q. And you resolved any differences in the statements to the effect that Mr. Raymond

had, in fact, committed these actions that he was accused of?

MR. McGUINN: I object to that.

TRIAL EXAMINER: Sustained.

* * *

[3212]

CROSS EXAMINATION

Q. (By Mr. Ratner) Did you consider, Mr. Hall, when you were making your findings - first, your findings as to which of these statements to credit - that the entire incident occurred at a time when Raymond was acting in his capacity as a Union Steward, and that the foreman was acting in his capacity as management's agent in the first step of the grievance procedure?

MR. McGUINN: Oh, I object to that, Your Honor. This is strictly double teaming work.

MR. HARVEY: Oh, no.

TRIAL EXAMINER: Mr. Ratner said this was a preliminary question.

What is your answer to that, sir? I think you have answered it, in effect, already.

A. Except that there was a discussion in the morning when Raymond was not acting as a steward which led up to actually the series of incidents in the afternoon when he was clocked on union business, and he did make some derogatory remarks during the earlier discussion in the morning.

Q. (By Mr. Ratner) The derogatory remarks he made early in the morning influenced your findings as to who was telling the truth and what had actually occurred in this incident or your recommendation for discipline.

MR. McGUINN: I again object. We are getting into --

TRIAL EXAMINER: Sustained.

MR. RATNER: I confess that I do not understand it. I do not understand the ruling or the rationale for it.

Q. (By Mr. Ratner) Did you consider in making your recommendations as to the extent of discipline that the incidents involving alleged knocking of the pencil from the foreman's hand, the foreman's assertedly repeated order to Raymond to return to work, and the use of profanity all occurred while Raymond was acting as a union steward?

TRIAL EXAMINER: Are you asking whether he took all of these things into consideration?

[3214] MR. RATNER: Whether he took into consideration the fact that at the time all of those things occurred Raymond was acting as a union steward. A. Yes. As a matter of fact, one of the reasons that I asked for the statements in the first place was that I understood that Raymond had been clocked out and was discussing his own rating grievance with the foreman at the time it happened.

Q. (By Mr. Ratner) Would it have made any difference if Raymond was discussing somebody else's grievance with the foreman?

MR. McGUINN: I object.

TRIAL EXAMINER: Sustained.

MR. RATNER: The question I am asking --

TRIAL EXAMINER: Mr. Ratner, as far as I can see you are going over the same ground that Mr. Harvey has already gone over.

MR. RATNER: I am sorry that is the way you see it, Mr. Examiner. I will not trouble you further.

* * *

[3268] MR. HARVEY: Finally, Mr. Examiner, I have had a chance to look quickly through

Respondent's rejected Exhibits 89(b), (d) and (f), which are the minutes of steps two, three and four of the Gary Raymond grievance, and I believe I have marked them for identification as General Counsel's Exhibit 95(a), (b) and (c), respectively, and I feel that they have substantive value with respect to admissions and concessions, and I would move their admission for substantive purposes in this case.

[3269] MR. WELLS: That is what my move was, that they be put in for substantive purposes. Are you withdrawing your objection?

MR. HARVEY: I am offering them myself as the minutes, just the minutes, Mr. Wells; not your entire Respondent's 89 for the purposes that you stated.

MR. WELLS: Well, the minutes are part of my --

MR. HARVEY: I understand that, sir, and I have selected three of them out, and I now move their admission and consent to the concessions contained therein.

MR. WELLS: Well, Mr. Examiner --

TRIAL EXAMINER: They were offered as Respondent's exhibits?

MR. WELLS: Yes.

MR. HARVEY: Yes.

TRIAL EXAMINER: What number?

MR. HARVEY: As Respondent's Exhibit 89(b), 89(d) and 89(f).

TRIAL EXAMINER: May I see them please?

MR. HARVEY: These are the three that I indicated, and here is the balance of 89 in case you want to see that.

TRIAL EXAMINER: Off the record.

(Discussion off the record.)

TRIAL EXAMINER: On the record.

[3270] I am going to at this point reverse my ruling with respect to Respondent's Exhibit 89, and it will now be admitted into evidence in its entirety. Since it has been admitted, there is no need to repeat it as General Counsel's proposed Exhibit 95(a), (b) and (c).

[Whereupon, the document, heretofore marked Respondent's Exhibit Nos. 89(a) thru (k) and rejected, was received in evidence.)

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Lodges 700, 743, and 1746, International)
Association of Machinists and Aerospace)
Workers, AFL-CIO,)
Petitioners,)
v.)
National Labor Relations Board,)
Respondent,)
and)
United Aircraft Corporation,)
Intervenor.)

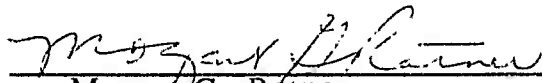
No. 74-1035

CERTIFICATE OF SERVICE

I hereby certify that three copies of the Joint Appendix in the above-captioned matter have been hand delivered to the offices of the below-listed counsel this date:

Elliott Moore, Esq.
Associate General Counsel
National Labor Relations Board
1717 Pennsylvania Avenue, N. W.
Washington, D. C. 20570

Joseph C. Wells, Esq.
1225 Connecticut Avenue, N. W.
Washington, D. C. 20036


Mozart G. Ratner

March 5, 1975